4114.

SUPREME COURT OF THE UNITED STATES.

No. 205.

THE UNITED STATES, APP'TS,

vs.

ROSA PACHECO ET AL., DEVISEES UNDER THE LAST WILL AND TESTAMENT OF JUANA SANCHEZ DE PACHECO, DEC'D.

APPEAL FROM THE DISTRICT COURT OF THE U. S. FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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Transcript of the Proceedings in Case No. 168—*Juana Sanchez de Pacheco, Claimant,* vs. *The United States, Defendant—for the place named "Arroyo de los Nueces y Bolbones."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the Private Land Claims in the State of Cal'a.

Be it remembered, that on this sixth day of April, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Juana Sanchez de Pacheco for the place named "Arroyo de los Nueces y Bolbones" was presented, and ordered to be filed and docketed with No. 168, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *Jan. 8th*, 1853.

In case No. 168, Juana Sanchez de Pacheco, for the place named "Arroyo de los Nueces y Bolbones," the deposition of Antonio Maria Pico, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed and is in the words and figures as follows, to wit:

(Vide page 4 of this Transcript.)

SAN FRANCISCO, *March 8th*, 1853.

In case No. 168, Juana Sanchez de Pacheco, for the place named "Arroyo de los Nueces y Bolbones," the counsel for the claimant filed the following stipulation, to wit:

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *March 10th*, 1853.

In case No. 168, Juana Sanchez de Pacheco, for the place named "Arroyo de los Nueces y Bolbones," the deposition of H. W. Halleck, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed, and is in the words and figures as follows, to wit:

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *Mar. 14th*, 1853.

Ordered, on motion of the United States law agent, that case No.

168, Juana Sanchez de Pacheco, for the place named "Arroyo de los Nueces," &c., be placed on the trial docket.

SAN FRANCISCO, *March 28th*, 1853.

Case No. 168, Juana Sanchez de Pacheco, for the place named "Arroyo de los Nueces y Bolbones," called; the counsel for the claimant, Mr. Halleck, read the petition and the papers in evidence; the United S. associate law agent read and filed his brief; submitted and taken under advisement by the board.

SAN FRANCISCO, *Ap'l 11th*, 1853.

In case No. 168, Juana Sanchez de Pacheco, for the place named "Arroyo de los Nueces y Bolbones," Commissioner Hiland Hall delivered the opinion and the decree of final confirmation, which opinion and decree are as follows, to wit:

(Vide page 32 of this Transcript.)

Petition.

To the Honorable Commissioners to settle Private Land Claims in California.

The petitioner, Juana Sanchez de Pacheco, respectfully shows, that on the 15th day of May, A. D. 1834, she applied in due form for the tract of land included between the Arroyo de las *Nuces* and the Sierra de Galgones; that said application having been duly examined and reported upon, on the 11th day of July, A. D. 1834, José Figueroa, governor of California, by virtue of authority in him vested, granted to the petitioner the said tract of land, situate in the present county of Contra Costa, containing two square leagues, a little more or less, as shown by the corresponding map, and described in the title papers, which grant was duly approved on the 22d day of July, A. D. 1834, and that the aforesaid Governor Figueroa accordingly issued to the petitioner the formal title for the said land on the 31st day of July, A. D. 1834, all of which is shown in the expediente, a certified copy of which is submitted herewith marked A, with a translation marked B.

That the said land has not been surveyed by the surveyor general of the United States, but that its boundaries are fully described in the title papers, and are well known.

That the petitioner has been for about 20 years, and now is in the quiet, peaceful, and undisputed possession and occupation of the aforesaid tract of land.

That she knows of no conflicting claim.

That she relies for confirmation of title upon the original papers, copies of which are submitted herewith upon the records of the archives now in the charge of the surveyor general, and upon such other and further proofs as she may be advised are necessary.

Wherefore she prays the commissioners to confirm to her the aforesaid tract of land.

By her att'ys,

HALLECK, PEACHY & BILLINGS.

Filed in office April 6th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Antonio Maria Pico.

SAN FRANCISCO, *Jan'y 8th*, 1853.

On this day, before Com'r Harry J. Thornton, came Antonio Maria Pico, a witness in behalf of the claimant, Juana Sanchez de Pacheco, petition No. 168, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

My name is Antonio Maria Pico; my age is 44 years; I reside in San José, and have resided in California all my life.

I know the rancho claimed by Juana Sanchez de Pacheco; it is situated in the county of Contra Costa.

It was granted to Mrs. Pacheco, by Governor Figueroa, in 1834. Mrs. Pacheco, or her servants and vaqueros, have occupied it ever since, with a house and with cattle and horses; they have cultivated a small portion of it.

Her grandchildren live on it now.

ANTONIO MA. PICO.

U. S. law agent present.

Sworn and subscribed before me, this 8th day of Jan'y, 1853.

HARRY J. THORNTON.

Filed in office Jan'y 8th, 1853.

GEO. FISHER, *Sec'y.*

Deposition of H. W. Halleck.

SAN FRANCISCO, *March* 10, 1853.

On this day, before Com'r Hiland Hall came H. W. Halleck, a witness in behalf of the claimant, Juana Sanchez de Pacheco, petition No. 168, and was duly sworn, his evidence being given in English.

The U. S. law agent was present.

My name is H. W. Halleck; I reside in San Francisco, and have lived in California between 6 and 7 years. I held the office of sect'ry of state from 1847 to end of 1849, and as such, had charge of the government archives. In August, 1849, Doña Juana Sanchez de Pacheco, the claimant in this case, applied to me for a copy of the expediente of her rancho, called "El Arroyo de los Nueces y los Golgones," saying that she had lost the original. I am now her agent and attorney, and represent her in this claim.

She is an old woman; lives in San José; and from age and infirmity cannot appear before the commissioners. I have understood from her for the last 4 years that the original title has been lost, and as her agent, I swear that to the best of my knowledge and belief, said original is not now in existence, and that the title in the expediente filed in this case is a true copy of said original, the same being a certified copy from the records of the former government.

H. W. HALLECK.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office March 10, 1853.

GEO. FISHER, *Sec'y.*

Stipulation.—No. 168.

Before the U. S. Land Commission.

In the claim of Juana Pacheco to "Arroyo de las Nueces y Sierra de Bolbones."

In this case it is agreed between the counsel of the claimant and the law agent of the United States, that all the laws, decrees, ordinances, and regulations, whether of Spain or Mexico, and especially the colonization law of Mexico, passed on the 18th August, 1824, and the regulations made by the supreme executive power of Mexico on the 21st November, 1828, shall be considered as having been offered in evidence in this cause and duly proven.

HALLECK, PEACHY & BILLINGS,
Counsel for Claimant.

R. GREENHOW,
Ass't Law Agent U. S.

Filed in office March 8th, 1853.

GEO. FISHER, *Sec'y.*

Jurisdiccion de San José Guadalupe—año de 1834.

No. 40.

Espediente.

Sobre el terreno comprendido entre el arroyo de las Nueces y los Bolbones. Solicitado por D'a Juana Sanchez de Pacheco.

36.

Espediente.

Sello Tercero—Dos Reales.

Habilitado provicionalmente por la administracion de la aduana

maritima de Monterey para los años de mil ochocientos treinta y cinco.

RAFAEL GONZALEZ.

FIGUEROA.

[S. D. K.]

Sor. Gefe Sup'r Politico:

Juana Sanchez, vuida del finado Miguel Pacheco vecino y residente en el pueblo de San José de Guadalupe; ante V. S. en debida forma se presenta y expone; que hallandose dueña de algun numero de ganado mayor vacuno y caballar cuyos intereses son el unico socorro de que depende el mantenimiento de su familia; carece de la propiedad de un terreno en que establecer sus dichas propiedades; en esta virtud, ocurre á la recta justicia de V. S. á fin de que en uso de sus facultades, se digne agraciarle con la concesion del terreno que contiene, el diseño que acompaña. Por tanto A. V. suplica proveer segun jusque de justicia y de su sup'r agrado en q'e recibira merced.

Pueblo de San José de Guadalupe 15 de Mayo, de 1834.

JUAN SANCHEZ DE PACHECO.

MONTEREY, *Junio* 2, *de* 1834.

De conformidad con las leyes de la materia informe el ayuntamiento del pueblo de San José Guadalupe, si la interesada en esta instancia o viere los requisitos prevenidos para ser atendida á su solicitud si el terreno que pretende esta comprendido en las veinte leguas limitrofes ó diez litorales q'e espresa la ley de 18 Agosto, de 1824. Si es de regadio.

temporal ó abrevadera, si pertenece a la propiedad de algun particular mision, corporacion, ó Pueblo con todo lo demas que sea conveniente a ilustrar la materia el S'or Don José Figueroa general de brigada comandante gen'l y gefe superior politico de la Alta California asi lo mando decreto y firmo.

JOSÉ FIGUEROA.

AGUSTIN V. ZAMORANO, *S'rio.*

En cumplimiento al supremo decreto qe. antecede, digo; que la parte interesada obtiene los requisitos prevenidos para ser atendida en su solicitud, que el terreno que pretende no esta comprendido en las veinte leguas limitrofes ni en las diez litorales que espresa la ley de 18 de Ag'to de 1824, es de temporal y abrevadero, y no pertenese a propiedad particular mision, corporacion, ni pueblo.

Pueblo de S. José Guadalupe, Junio 17 de 1834.

JOSÉ FERNANDEZ.

PEDRO CHABOLLA.

MONTEREY, *Junio* 30 *de* 1834.

Pase al alcalde de esta capital ante quien la parte de Doña

Juana Sanchez de Pacheco producira una informacion de sus testigos idoncos que seran interrogados sobre los puntos siguientes:

1o. Si la solicitante es Mexicana por nacimiento si es casada y tiene hijos si es de buena conducta.

2o. Si el terreno que pretende pertenece a la propiedad de algun particular, mision, pueblo ó corporacion si es de regadio temporal ó abrevadero y que estencion tendra.

3o. Si tiene bienes de campo con que poblarlo ó posibilidad de adquirirlos. Evacuadas estas diligencias vuelva el expediente pa. su resolucion. El S'or Don José Figueroa general de brigada comandante general inspector y gefe superior politico de la Alta California asi lo mando decreto y firmo de que doy fé.

JOSÉ FIGUEROA.

AGUSTIN V. ZAMORANO, *S'rio.*

MONTEREY, *Julio* 8 *de* 1834.

En cumplimiento del sup'r decreto del S'or gefe sup'r politico de f'ha 30 del mes—

(Sello Tercero—Dos Reales.)

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey para los años de mil ochocientos treinta y cinco.

RAFAEL GONZALEZ.

FIGUEROA.

—ppe. tomese la informacion de tres testigos idoneos que seran interrogados sobre los tres puntos que menciona dicho sup'r decreto asi yo el alcalde constitucional lo decrete, mande y firme con testigos de asistencia en la forma establecida doy fe.

MAN'L JIMENO CASARIN.

De ass'a, JOSÉ ANTONIO ROMERO.
De ass'a, JOSÉ JOAQUIN GOMEZ.

En la fecha presente la parte de Doña Juana Sanchez de Pacheco se le notifico el acto que antecede y entendido dijo que lo oyo y no firmo p'r no saber, lo hize yo con los testigos de asistencia.

CASARIN.

De ass'a, JOSÉ ANTONIO MORENO.
De ass'a, JOSÉ JOAQUIN GOMEZ.

Sello Tercero—Dos Reales.

(Habilitado provicionalmente por la administracion de la aduana maritima de Monterey para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco.

RAFAEL GONZALEZ.)

FIGUEROA.

[*Here follows map—see original, page* 12.]

La f'ha presente el vecino José le recibio juramento en toda forma de derecho por el cual ofrecio, decia verdad, en lo que supiese y fuese preguntado y siendo por su nombre, estado, edad, empleo, patria y religion. Dijo, llamase como queda dicho que es casado de treinta y siete años labrador natural del pueblo de San José Guadalupe en este territorio y C. A. R. (interrogado) sobre los tres puntos que menciona el referido sup'r decreto del So'r gefe politico de f'ha 30 del mes pp'e dijo, que conoce a D'a Juana Sanchez de Pacheco que es Mejicana por nacimiento viuda y tiene hijos, y es de buena conducta que tambien conoce el terreno que pretende dicha S'ra Pacheco y no pertenece a la propiedad de ningun particular, mision, pueblo y no ha corporacion ninguna, que dicho terreno no es de regadio y si es de temporal y abrevadero, y que tendra de longitud poco mas o menos de dos leguas y media y de latitud como dos leguas, que ultimamente la espresada S'ra Juana Sanchez de Pacheco tiene bienes de campo con que poblar el mencionado terreno. Que lo dicho es la verdad ha cargo del juramento que tiene hecho en el que ratifico leida que le fue esta su declaracion y no firmo por que dijo no saber, lo hize y o con los testigos de asistencia.

CASARIN.

De ass'a, José Antonio Romero.
De ass'a, José Joaquin Gomez.

En la f'ha presente el vecino Manuel Peña se le recibio juramento en toda forma de derecho por lo cual ofrecio decir la verdad en lo que supiese y fuese preguntado y siendolo por su nombre, estado, edad, empleo, patria, y religion dijo llamarse como queda dicho, casado, de veinte y ocho años, labrador, natural del presidio de San Diego en este territorio y C. A. P.

(Interrogado.) Sobre los tres puntos que menciona el d'ho sup'r decreto del S'or gefe politico de f'ha 30 del mes pp'e dijo que conoce a D'a Juana Sanchez de Pacheco, que es viuda, y tiene hijos y es de buena conducta, que es Mexicana pr. nacimiento que—

(Sello Terecero—Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa. RAFAEL GONZALEZ.)

—tambien conoce el terreno que pretende y no pertenece a la propiedad de ningun particular, mision, pueblo y no ha corporacion ninguna, que dicho terreno no es de regadio y si de temporal o abrevadero, y tendra de longitud por mas o menos, de dos leguas

y media y de latitud como dos leguas, que ultimamente la espresada D'a Juana Sanchez de Pacheco tiene bienes de campo con que poblar el espresado terreno, que lo dicho es la verdad ha cargo del juramento que tiene hecho con el que se ratifico, leida que le fue esta su declaracion y firmo conmigo y los testigos de asistencia. Doy fé.

CASARIN. MAN'L PEÑA.

De ass'a, JOSÉ ANT'O ROMERO.
De ass'a, JOSÉ JOAQUIN GOMEZ.

En la f'ha presente el vecino José Franco. Palomares se le recibio juramento en toda forma de derecho por el cual ofrecio decir verdad en lo qe. supiese y fuese preguntado y siendolo por su nombre, estado, edad, empleo, patria y religion. Dijo llamase como queda dicho que es casado, de veinte y seis años labrador, natural del pueblo de San José Guadalupe en este territorio y C. A. P. (interrogado) sobre los tres puntos que menciona el repetido sup'r decreto del S'r gefe politico de f'ha 30 del mes ppe. dijo que conoce a D'a Juana Sanchez de Pacheco, que es Mexicana por nacimiento viuda tiene hijos y es de buena conducta, que tambien conoce el terreno que pretende dicha S'ra Pacheco, y no pertenece a la propiedad de ningun particular, mision, pueblo y no ha corporacion ninguna, que dicho terreno no es de regadio y si de temporal, y abrevadero, y que tendra de longitud poco mas o menos dos leguas y de latitud como dos leguas. Que ultimamente el mencionado terreno puede poblarse con los bienes de campo que tiene la espresada D'a Juana Sanchez de Pacheco, que lo dicho es la verdad, ha cargo del juramento que tiene hecho en el que lo afirmo y ratifico leida, que le fue esta en—

(Sello Tercero—Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

FIGUEROA. RAFAEL GONZALEZ.)

—declaracion y no firmo por que dijo no saber hacer lo hize yo con los testigos de asistencia. Doy fé.

CASARIN.

De ass'a, JOSÉ ANT'O ROMERO.
De ass'a, JOSÉ JOAQUIN GOMEZ.

Monterey, Julio 8, de 1834.

Concluidas las anteced'tes diligencias vuelva el esped'te al S'or gefe sup'r politico para su resolucion. Asi yo el alcalde constitucional lo decrete, mande y firme con los de asistencia con quienes

autero por falta de escribano publico que no lo hay segun dicho. Doy fe.

MANUEL JIMENO CASARIN.

De ass'a, JOSÉ ANT'O ROMERO.
De ass'a, JOSÉ JOAQUIN GOMEZ.

Monterey, Julio 11, de 1834.

Vista la peticion con que da principio este espediente el informe de la autoridad municipal del pueblo de San José Guadalupe las esposiciones de los testigos con todo lo demas que se tubo presente y ver convino de conformidad con lo dispuesto por las leyes y reglamentos de la materia se declaro a Doña Juana Sanchez de Pacheco dueña en propiedad del terreno comprendido entre el arroyo de las Nueces y sierra de los Golgones, colindante con los atados parajes y con los ranchos de las puntas, San Ramon, y Monte del Diablo y sugeto a las condiciones que se estipularen. Dirijiere este expediente a la ex'ma diputacion para la debida aprovacion. El S'or Don José Figueroa, general de brigada comandante gen'l inspector y gefe superior politico del territorio de la Alta California. Asi lo mando decreto y firmo de que doy fé.

JOSÉ FIGUEROA. AGUSTIN V. ZAMORANO, *S'rio.*

Monterey, July 12, de 1834.

En sesion de este dia acordo la ex'ma diputacion pase á las comisiones unidas de—

(Sello Tercero—Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey para los años de mil ochocientos treintá y cuatro y mil ochocientos treinta y cinco.

FIGUEROA. RAFAEL GONZALEZ.)

—colonizacion y terrenos valdios.

FIGUEROA. JOSÉ MARIA MALDONADO.

EX'MO S'OR: Las comisiones unidas de colonizacion y terreno valdios, han visto con espasio la escrupulosidad con que se mando practicar este espediente, no encontrado en el estrabio alguno y siendo en todo conforme con la ley de 18 de Agosto de 1824, y el articulo 5o del corriente, de 21 de Noviembre de 1828.

Por lo dicho concluye la comision ofresiendo a la deliberacion de esta ex'ma diputacion la siguiente proposicion.

Se aprueba la concesion hecha á Doña Juana Sanchez de Pacheco del parage comprendido entre el arroyo de las Nueces y los Bolbones, consedido en 11 de Julio de 1834. Monterey, Julio 15 de 1834.

JOSÉ ORTEGA.
SANTOS ANT'O CARRILLO.
JOSÉ A. ESTUDILLO.

Dada cuenta á la E. diputacion en sesion de hoy con el antecedente dictamen.

Aprovo la unica proposicion en que concluye cuya letra es como sigue.

Se aprueba la comision hecha a D'a Juana Sanchez de Pacheco, del parage comprendido entre el arroyo de las Nueces y los Bolbones, concedido en 11 de Julio de 1834.

Y en su consequencia se desvuelve el espediente al S. gefe superior politico p'a su curso.

Monterey, Julio 22 de 1834.

José Figueroa. JOSÉ MARIA MALDONADO.

(Sello Tercero—Dos Reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

Figueroa. RAFAEL GONZALEZ.)

Monterey, Julio 31 de 1834.

En vista del acuerdo de la excelentisima diputacion territorial del dia 22, del que acava en confirmacion del terreno comprendido entre el arroyo de las Nueces y los Golgones pretendido por Doña Juana Sanchez de Pacheco, librese el titulo respectivo tomese razon en el libro a que corresponde y entreguese a la interesada para su resguardo y demas fines. El S'or Don José Figueroa, general de brigada, comandante gen'l inspector y gefe superior politico de la Alta California, asi lo firmo decreto de que doy fé.

José Figueroa. AGUSTIN V. ZAMORANO.

José Figueroa, General de Brigada de la Republica Mexicana, Comand'te Gen'l Inspector y Gefe Sup'r Politico del Territorio de la Alta California.

Por cuanto Da. Juana Sanchez de Pacheco Mexicana por nacimiento ha pretendido pa. su beneficio personal y el de su familia. El terreno comprendido entre el arroyo de las Nueces y la Sierra de los Golgones; colindante con los citados parages y los ranchos de la Junta Dn. Ramon y Monte del Diablo, practicada previamente las diligencias y averiguaciones concernientes segun lo dispuesto; por leyes y reglamentos usando de las facultades que me son conferidas y de conformidad con el acuerdo de la ex'ma diputacion territorial del dia 22, del corriente aprovando la concesion del citado terreno comprendido entre el arroyo de las Nueces y sierra de los Golgones, hecha en 11 de este mes a la referida Da. Juana Sanchez de Pacheco; a nombre de la nacion Mexicana he venido en confirmarle el terreno mencionado, declarandole la propiedad de el por las presentes letras, sujeta a las condiciones siguientes:

1a. Que se sometera a la que estableciese el reglamento que se ha de formar pa. la distribucion de terrenos valdios y que entre-

tanto ni el agraciado, ni sus herederos podran dividir, ni enagenar el que se le adjudica, imponer censo, vinculo, fianza, invecta, ni otro gravamen aunque sea pr. causa piadosa, ni pasarlo a manos nuestras.

2a. Podra cercarlo sin perjudicar las travecias, caminos y servidumbres lo disfrutara libre y esclusivamente destinandolo al uso o cultivo que mas le acomode, pero dentro de un año a lo mas fabricara casa, y estara habitada.

3a. Solicitara del juez respectivo le de posesion juridica en virtud de este despacho, por el cual se demarcaran los linderos en cuyos limites pondra a mas de las mojoneras algunos arboles frutales o silvestres de alguna utilidad.

4a. El terreno de que se hace mencion es de dos sitios de ganado mayor sobre poco mas ó menos segun esplica el diseño que corre en el espediente. El juez que diere la posesion lo hara medir conforme a ordenanza hara senalar los linderos, quedando el sobrante y vuelva a la nacion pa. los usos convenientes.

5a. Si contraviniese a estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consequencia mando que teniendose pr. firme y valedero este titulo se tome razon de el en el libro a que corresponde y se entregue a la interesada pa. su resguardo y demas fines. Dado en Monterey, a 31 de Julio, de 1834.

JOSÉ FIGUEROA.

AGUSTIN V. ZAMORANO, *S'rio.*

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office, and under my charge and control, a portion of the archives of the former Spanish and Mexican Territory or department of Upper California, do hereby certify that the nineteen preceding and hereunto annexed pages of tracing paper, numbered from one to nineteen inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office) at the city of San Francisco, Cal., this 30th day of March, A. D. 1852.

(Signed) SAML. D. KING,
Surv'r Gen. Cal.

Filed in office April 6th, 1852.

GEO. FISHER, *Sec'ry.*

Stamp Third—Two Reales.

Provisionally authorized by the administration of the maritime

custom-house of Monterey, for the years eighteen hundred and thirty-four and eighteen hundred and thirty-five.

(Signed) FIGUEROA,
(Signed) RAFAEL GONZALES.

Translation of Expediente.

To the Superior Political Chief:

Juana Sanchez, widow of the deceased Miguel Pacheco, resident and settled in the pueblo of San José de Guadalupe, before your honor in due form appears and represents, that being the owner of a number of neat cattle and horses, (which property is the only source which depends the maintenance of her family) she is in want of a piece of land in which to establish her said property, in virtue of which she applies to the upright justice of your honor, that in the exercise of your powers you would be pleased to favor her with the grant of the land contained in the map which she transmits.

Wherefore she prays your honor to determine as you may think just, and your superior pleasure; in which she will receive favor.

Pueblo de San José Guadalupe, 15 of May, 1834.

(Signed) JUANA SANCHEZ DE PACHECO.

MONTEREY, *June 2d*, 1834.

In conformity with the laws on the matter, let the ayuntamiento of the pueblo of San José Guadalupe report whether the person interested in this petition possesses the prescribed qualifications to be attend to in her petition; whether the land petitioned for is included in the twenty leagues from the boundary, or ten from the sea, specified in the law of Aug. 18, 1824; whether it is irrigable, depending on the seasons, or pasture-land; whether it belongs to the ownership of any individual, mission, corporation, or pueblo, with all other information which may conduce to explain the matter.

Señor Don José Figueroa, general of brigade, commanding general, and governor of Upper California, thus ordered, decreed and signed, to which I certify.

(Signed) JOSÉ FIGUEROA.
(Signed) AGUSTIN V. ZAMORANO,
Secretary.

In compliance with the foregoing superior decree, I say that the party interested possesses the prescribed qualifications to have her petition attended to. The land petitioned for is not included within the twenty leagues from the boundary, nor in the ten from the sea-shore, referred to in the law of Aug. 18, 1824; it is land depending on the seasons, and pasture-land, and belongs to no

private ownership, nor to that of any mission, corporation, or pueblo.

Pueblo de San José Guadalupe, June 17, 1834.

(Signed) PEDRO CHABOZA.
(Signed) JOSÉ FERNANDEZ,
Secretary.

MONTEREY, *June* 30, 1834.

Pass this to the alcalde of this capital, before whom the party Doña Juana Sanchez de Pacheco will produce the information of three fit witnesses, who will be questioned upon the following points:

1. Whether the petitioner is a Mexican by birth, whether she is married and has children, and whether she is of good conduct.

2. Whether the land she petitions for belongs to the ownership of any private individual, mission, pueblo or corporation; whether it is irrigable, depending on the seasons, or pasture-land, and what its extent is.

3d. Whether she has cattle with which to stock it, or a possibility of acquiring such.

These examinations being made, this expediente will be returned for its decision.

Señor Don José Figueroa, general of brigade, commanding general, inspector, and governor of Upper California, thus ordered, decreed and signed, to which I certify.

(Signed) JOSÉ FIGUEROA.
(Signed) AGUSTIN V. ZAMORANO,
Secretary.

MONTEREY, *July 8th*, 1834.

In compliance with the superior decree of the superior political chief, of the 30th of last month, let the information be taken of three competent witnesses, who will be questioned upon the three points which said superior decree mentions.

I, the constitutional alcalde, thus ordered, decreed and signed, with assisting witnesses, in the established form. I certify.

(Signed) MANUEL JIMENO CASARIN.

Assisting witnesses:

(Signed) JOSE ANTONIO ROMERO,
(Signed) JOSE JOAQUIN GOMEZ.

On this same day the party, Doña Juana Sanchez de Pacheco, was notified of the foregoing act, and having understood it she said

that she heard it, and did not sign because she did not know how; I did so with the assisting witnesses.

(Signed) CASARIN.

Assisting witnesses:

(Signed) JOSE ANT'O ROMERO,

(Signed) JOSE JOAQUIN GOMEZ.

In the same date, present the resident José Sibrian, oath was received of him in due form of law, by which he promised to speak truth in that which he might know and be asked; and being questioned as to his name, State, age, occupation, county and religion, he said: he is called as aforesaid; is married; thirty-seven years of age; a farmer; native of the Pueblo of San José Guadalupe, in this Territory; and apostolic Roman Catholic.

Questioned upon the three points specified in said superior decree of the superior political chief, dated the 30th ultimo, he answered: that he is acquainted with Doña Juana Sanchez de Pacheco; that she is a Mexican by birth, a widow, and has children, and is of good conduct; he also knows the land petitioned for by said Señora Pacheco, and that it does not belong to the ownership of any private individual, mission, pueblo, or corporation whatever; said land is not irrigable, but does depend on the seasons, and is pasture-land; that its length is about two and a half leagues, a little more or less, and its breadth about two leagues; and lastly, that the said Señora Juana Sanchez de Pacheco has cattle (brenes de campo) with which to stock the aforesaid land; that what he has said is the truth by the oath which he has taken; and this his declaration having been read to him he ratified it, and did not sign because he said he did not know how, and I did so with the assisting witnesses.

(Signed) CASARIN.

Assisting witnesses:

(Signed) JOSE ANT'O ROMERO,

(Signed) JOSE JOAQUIN GOMEZ.

On the same date, present the resident Manuel Peña, an oath was received of him in due form of law, by which he promised to speak the truth in all that he might know and be asked; and being questioned as to his name, State, age, occupation, country and religion, he said: he is named as before stated; is married; twenty-eight years old; a farmer; native of the presidio of San Diego, in this Territory, and Apostolic Roman Catholic.

Questioned upon the three points referred to in the superior decree of the political chief, dated 30th ult., he answered: that he is acquainted with Doña Juana Sanchez de Pacheco; that she is a widow; has children, and is of good conduct, and that she is a

Mexican by birth. That he also knows the land petitioned for, and that it does not belong to the ownership of any individual, mission, pueblo or corporation whatever; that said land is not irrigable, but is dependent upon the seasons and pasture land; its length may be two and a half leagues, more or less, and its width two leagues; and, lastly, that the said Doña Juana Sanchez de Pacheco has cattle (brenes de campo) with which to stock the land aforesaid. That what he has said is true, by the oath which he has taken, and this declaration been read to him, he ratified it and signed with me and the assisting witnesses. I certify.

(Signed) CASARIN,
(Signed) MANUEL PEÑA.

Assisting witnesses:
(Signed) JOSÉ ANT'O ROMERO,
(Signed) JOSÉ JOAQUIN GOMEZ.

In the same date, present the resident José Francisco Palomares, oath was received of him in due form of law, by which he promised to speak truth in all that he might know and be asked; and being questioned as to his name, age, State, occupation, country and religion, he said: he is called as has been stated; he is married; twenty-six years old; a farmer; native of the pueblo of San José Guadalupe, in this Territory, and Apostolic Roman Catholic.

Questioned upon the three points mentioned in the aforesaid superior decree of the political chief, date the 30th ult., he said: that he is acquainted with Doña Juana Sanchez de Pacheco; that she is a Mexican by birth; a widow; has children, and is of good conduct. That he also knows the land petitioned for by said Señora Pacheco, and that it does not belong to any individual mission, pueblo or corporation whatever; that the said land is not irrigable, but is dependent upon the seasons and pasture land; its length may be two leagues, more or less, and its breadth about two leagues; and, lastly, that the said land may be stocked with the cattle that the aforementioned Doña Juana Sanchez de Pacheco has. That what he has said is the truth, by the oath which he has made, by which he affirmed and ratified this his declaration, it having been read to him, and did not sign, because he said he could not, and I did so with the assisting witnesses. I certify.

(Signed) CASARIN.

Assisting witnesses:
(Signed) JOSÉ ANT'O ROMERO,
(Signed) JOSÉ JOAQUIN GOMEZ.

MONTEREY, *July 8th*, 1834.

The foregoing examination being concluded, let this expediente be returned to the superior political chief for its decision.

I, the constitutional alcalde, thus decreed, ordered and signed

with those of my assistance with whom I act, for want of a notary public, (there being none,) according to law. I certify.

(Signed) MANUEL JIMENO CASARIN.

Assisting witnesses:

(Signed) JOSÉ ANT'O ROMERO,

(Signed) JOSÉ JOAQUIN GOMEZ.

MONTEREY, *July* 11*th*, 1834.

Having seen the petition with which this expediente commences, the report of the municipal authority of the pueblo of San José Guadalupe, the depositions of the witnesses, with all other things borne in mind and deemed proper to be seen, in conformity with that required by laws and regulations on the matter, Doña Juana Sanchez de Pacheco is declared owner in fee of the land included between the arroyo de los Nueces and the sierra de los Golgones, bounded by the said places and by the ranchos of San Ramon, Las Juntas and Monte del Diablo, and subject to the conditions which may be stipulated.

Let this expediente be directed to the most excellent deputation, for its due approval.

Señor Don José Figueroa, general of brigade, commanding general, inspector and governor of the Territory of Upper California, thus ordered, decreed and signed, to which I certify.

(Signed) AGUSTIN V. ZAMORANO,
Secretary.

(Signed) JOSÉ FIGUEROA.

MONTEREY, *July* 12, 1834.

In session of this day, the most excellent deputation directed that this be passed to the united committees on colonization and vacant lands.

(Signed) FIGUEROA.

(Signed) JOSÉ MARIA MALDONADO,
Secretary.

MOST EXCELLENT SIR: The joint committees on colonization and vacant lands have maturely considered the scrupulousness with which this expediente was ordered to be formed, and not finding in it any deviation, and being in all things in conformity with the law of August 18, 1824, and article 5 of the regulation of November 21, 1828: For the aforesaid reasons, the committee concludes by offering to the deliberation of this most excellent deputation the following proposition:

They approve the grant made to Doña Juana Sanchez de Pa-

checo, of the place included between the arroyo de las Nueces and the Bolbones, granted on the 11th of July, 1834.

(Signed) CARLOS ANT'O CARRILLO,
(Signed) JOSÉ J. ORTEGA,
(Signed) JOSÉ A. ESTUDILLO.

Monterey, July 15th, 1834.

The foregoing report having been transmitted to the most excellent deputation, it approved the only proposition with which it concludes, and which is to the letter as follows:

They approve the grant made to Doña Juana Sanchez de Pacheco, of the place included between the arroyo de las Nueces and the Bolbones, granted on the 11th of July, 1834; and, in consequence, the expediente is returned to the superior political chief for its further disposition.

(Signed) JOSÉ FIGUEROA,
(Signed) JOSÉ MARIA MALDONADO,
Secretary.

Monterey, July 22, 1834.

MONTEREY, *Julio* 31, 1834.

In view of the resolution of the most excellent territorial deputation of the 22d of this month, confirming the (grant of the) land included between the Arroyo de las Nueces and the Golgones, petitioned for by Doña Juana Sanchez de Pacheco, let the proper title be issued, let note be made in the corresponding book, and let this be delivered to the person interested for her security and other purposes.

Señor Don José Figueroa, general of brigade, commanding general and inspector, and governor of Upper California, thus ordered, decreed and signed, to which I certify.

(Signed) JOSÉ FIGUEROA.
(Signed) AGUSTIN V. ZAMORANO,
Secretary.

José Figueroa, General of Brigade of the Mexican Republic, Commanding General, Inspector and Governor of the Territory of Upper California.

Whereas Doña Juana Sanchez de Pacheco, a Mexican by birth, has, for her own personal benefit and that of her family, petitioned for the land included between the Arroyo de las Nueces and the Sierra de los Golgones, bounded by said places, and by the ranchos of Las Juntas, San Ramon and Monte de Diablo, the proper measurers and examinations being previously made as required by laws and regulations, by virtue of the powers which are conferred on me, and in conformity with the resolution of the most excellent ter-

ritorial deputation of the 22d inst. approving the grant of said land included between the Arroyo de las Nueces and the Sierra de los Golgones, made on the 11th of this month to the said Doña Juana Sanchez de Pacheco, in the name of the Mexican nation, I have granted her the aforesaid land, declaring to her the ownership of it by these presents, subject to the following conditions:

1st. She shall submit to those (conditions) which may be established in the regulation to be made for the distribution of vacant lands, and, in the meantime, neither the grantee nor her heirs can divide or alienate that which is granted her, subject it to tax, entail, pledge, mortgage, or other incumbrance, even for religious purposes, or convey it in mortmain.

2d. She may enclose it without prejudice to the crossings, roads and servitudes, and enjoy it freely and exclusively, making such use or cultivation of it as she may see fit; but within one year, at furthest, she shall build a house, and it shall be inhabited.

3d. She shall ask the proper magistrate to give her juridical possession in virtue of this title, by whom the boundaries shall be marked out, in the limits of which she shall place, besides the bounds, some fruit or forest trees of a useful character.

4th. The land of which mention is made is two square leagues, a little more or less, as shown by the map which goes with the expediente. The magistrate who may give the possession will cause it to be measured in conformity with the ordinance, for the purpose of marking out the boundaries, leaving the surplus which may result to the nation for its convenient uses.

5th. If she contravene these conditions, she will lose her right to the land, and it may be denounced by another person. In consequence, I order that this title, being held as firm and valid, note be made of it in the corresponding book, and it be delivered to the person interested for her security, and other purposes.

Given in Monterey on the 31st of July, 1834.

(Signed) JOSÉ FIGUEROA.

(Signed) AGUSTIN V. ZAMORANO,
Secretary.

E. C.
R. P.

I certify the foregoing to be a true and correct translation of an authenticated fac simile copy of the original Spanish document on file in the office of the U. S. surveyor gen'l, which authenticated "copy" is on file in this office in case No. 168—Juana Sanchez de Pacheco—for the place named Arroyo de las Nueces y Bolbones.

GEO. FISHER, *Sec'y.*

Filed in office April 6th, 1852.

GEO. FISHER, *Sec'y.*

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Opinion.

No. 168.—Juana Sanchez de Pacheco, Claimant.

The claim is for a tract of land of two square leagues in extent, called "El Arroyo de los Nueces y los Golgones," situated in the county of Contra Costa. It appears, by an official copy from the public archives now in the office of the surveyor general, that the claimant, in May, 1834, petitioned the governor of the Territory of California for the land now claimed; that after a reference of her petition to the local authorities, and their favorable report on the same, Governor Figueroa, by decree of the 11th of July, 1834, declared the claimant to be the owner of the land asked for, and transmitted the papers to the territorial deputation; that such deputation on the 22d of the same month approved of the grant, and that a title paper was issued to the claimant by the governor on the 31st of the same month in due and usual form. It is also shown that the land has been occupied by the claimant, by herself or servants, having a house upon it, raising cattle and horses, and cultivating a small portion of it from that time to the present. The original grant is not produced, but the counsel for the claimant testifies to his belief of its loss; and that the claimant is unable to appear before the commissioners to testify, by reason of age and infirmity.

From the circumstances stated in the deposition of the counsel, there seems no reason to doubt that the original grant has been lost or destroyed. The original draught of the grant, duly signed by the governor and attested by the secretary, is found in the archives; and as the claimant appears to have been in possession under it from the time it was made, we perceive no valid objection to the confirmation of the claim, and we accordingly confirm it.

Commissioner Thornton concurring in the result.

HILAND HALL.

Decree of final Confirmation.

No. 168.—Juana Sanchez de Pacheco, Claimant.

This board, on full consideration, having come to the conclusion that the claim is valid, now proceeds to make its final decree for the confirmation of the same, as follows, viz:

It is decreed that the said claim be confirmed to the extent and quantity of two square leagues, being the same land described in the grant, of which an official copy, from the office of the United States surveyor general for California, was given in evidence, and the same land of which the possession was proved to have been long enjoyed: Provided, That the said quantity of two square leagues be contained within the boundaries called for in the said grant; and if there be less than the said above named quantity

within the said bounds, then we confirm to the claimant that less quantity.

Given under our hands this 11th day of April, 1853.

HILAND HALL,
HARRY J. THORNTON,
Commissioners.

Filed in office April 11th, 1853.

GEO. FISHER, *Sec'y.*

Secretary's Certificate.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the Private Land Claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing thirty-three pages, numbered from 1 to 33, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 168 on the docket of the said board, wherein Juana Sanchez de Pacheco is the claimant against the United States, for the place known by the name of Arroyo de las Nueces y Bolbones.

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this thirtieth day of June, A. D. 1854, and of the independence of the United States of America the seventy-eighth.

[SEAL.]

GEO. FISHER, *Sec'y.*

Endorsed: Filed July 13th, 1854.

JOHN A. MONROE, *Clerk.*
By ALEX. M. SCHELL, *Deputy.*

Order that this Claim be revised in the name of Rosa Pacheco et als.

UNITED STATES
vs.
JUANA SANCHEZ DE PACHECO. } No. 46.

On suggestion of the death of the claimant, Juana Sanchez de Pacheco, and on the petition of the parties hereinafter named, and motion of A. P. Crittenden, their attorney, made in open court, it is ordered that the claim be revived in the names of Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Juan Soto, and Petra Pacheco his wife, Sylveria Pacheco, Joaquin Ysidro Castro, and Trinidad Pacheco his wife, Antonio Pacheco, Miguel Pacheco, and Maria Ygnacion Pacheco, minors, appearing by their guardian, Sebastian Peralta, Daniel Bowen, a minor, appearing by his guardian, Joaquin Ysidro Castro, Juan Peralta, Francisco Garcia,

and Maria Antonia Peralta his wife, Mariano Miranda, and Maria de los Angeles Peralta his wife, and Joaquin Ysidro Castro and Francis Lightstone, executors of the last will and testament of the said Juana Sanchez de Pacheco, deceased; and that all proceedings in this cause be conducted in the names of said paries.

October 17, 1854.

Endorsed: Filed October 17th, 1854.

JOHN A. MONROE, *Clerk.*

Order allowing further Evidence to be taken.

ROSA PACHECO, ENCARNACION PACHECO, and others, Appellants, vs. THE UNITED STATES, Respondent. } No. 46.

On motion of the appellants by A. P. Crittenden, their attorney, it is ordered by the court that they have leave to take further evidence on their own behalf therein, as they are advised may be useful in support of their claim, upon giving reasonable notice to the attorneys for the respective parties.

Endorsed: Filed October 17th, 1854.

JOHN A. MONROE, *Clerk.*

Petition.

To the Honorable the District Court of the United States for the northern district of California.

Your petitioners, Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Juan Soto, and Petra Pacheco his wife, Sylvenia Pacheco, Joaquin Ysidro Castro, and Trinidad Pacheco his wife, Antonio Pacheco, Miguel Pacheco, and Maria Ygnacio Pacheco, the three last minors, appearing by their guardian, Sebastian Peralta, Daniel Bowen, a minor, appearing by his guardian, Joaquin Ysidro Castro, Juan Peralta, Francisco Garcia, and Maria Antonia Peralta his wife, and Mariano Miranda, and Maria de los Angeles Peralta his wife, and Joaquin Ysidro Castro, and Francis Lightstone, respectfully represent to this honorable court, that Juana Sanchez de Pacheco did heretofore, as will fully appear by the transcript of the proceedings had before the board of commissioners to ascertain and settle the private land claims in the State of California, now on file in this court, present before the said board, while holding its session in the city of San Francisco, a claim for the land lying in the State of California, and in the northern district, and described in the said transcript, being claim No. 168 on the list of claims presented to the said board, under and by virtue of the act of Congress approved on the 3d of March, 1851.

That the claim of the said Juana Sanchez de Pacheco to the said land is founded upon a decree of concession thereof, made to her

under authority of the Mexican government by José Figueroa, as superior political chief of the Territory of Upper California, on the 11th of July, 1834, approved by the territorial deputation on the 22d of July, 1834, and on a final grant and concession of said land to her, made by said Figueroa, in the capacity aforesaid, and under the authority aforesaid, on the 31st of July, 1834, which said decree approved and granted, are fully set forth with the proofs and testimony in the transcript aforesaid.

That the claim of the said Juana Sanchez de Pacheco is for the whole of the tract of land included within the boundaries specified in said decree and grant, which boundaries include about two and a half square leagues, more or less.

That on the 11th of April, 1853, the said board rejected said claim in part, confirming it to the extent and quantity of two square leagues only, as will appear on reference to the decree of said board contained in the transcript aforesaid.

That after the decree of said board was made, to wit, on or about the 6th of September, 1853, the said claimant, Juana Sanchez de Pacheco, died.

That by her las will and testament she devised the said tract of land to your petitioners, Rosa Pacheco, Francisca Pacheco, Encarnacion Pacheco, Trinidad Pacheco, wife of your petitioner, Joaquin Ysidro Castro, Sylvenia Pacheco, Daniel Bowen, Antonio Pacheco, Miguel Pacheco, Maria Ygnacia Pacheco, Juan Peralta, Maria Antonia Peralta, wife of your petitioner, Francisco Garcia, Maria de los Angeles Peralta, wife of your petitioner, Mariano Miranda and Petra Pacheco, giving to each of said devisees a certain interest therein, which is specified in said last will and testament, which interests have not been divided nor set apart.

That, by her said last will and testament, the said Juana Sanchez de Pacheco appointed as executors thereof your petitioners, Francis Lightstone, called therein Francisco Lightstone, and Joaquin Ysidro Castro.

That the said last will and testament has been duly admitted to probate by the probate court of the county of Santa Clara, in the State of California, of which county the said Juana Sanchez de Pacheco was, at the time of her death, and for a long time previous thereto had been a resident, and your petitioners, Francis Lightstone and Joaquin Ysidro Castro, have duly qualified as executors, and now produce and show to the court their letters testamentary.

That your petitioner, Sebastian Peralta, has been, by said probate court of Santa Clara county, duly appointed, and has qualified, as the guardian of the minors, Antonio Pacheco, Miguel Pacheco and Maria Ygnacia Pacheco, and here shows to the court his letters of guardianship.

That your petitioner, Joaquin Ysidro Castro, has been by the

same court duly appointed, and has qualified, as the guardian of the minor Daniel Bowen, and here shows to the court his letters of guardianship.

That, under the said last will and testament of the claimant, Juana Sanchez de Pacheco, her right and claim to said tract of land, as the same is described in the decree of concession and grant aforesaid, is now vested in those of your petitioners named herein, to whom said land is devised as aforesaid by said last will and testament.

Your petitioners, therefore, pray that the said claim be revived in their names, and that your honorable court will review the decision of the said board, decide on the validity of their claim, and confirm the whole of said tract of land to the devisees under the said last will and testament.

A. P. CRITTENDEN,
Att'y for Petitioners.

Service of a copy of the within petition acknowledged October 17th, 1854.

S. W. INGE.

Endorsed: Filed October 17th, 1854.
JOHN A. MONROE, *Clerk.*

Notice by Claimant of intention to Prosecute Appeal.

Clerk's Office of the District Court of the United States for the northern district of California.

Whereas the commission, constituted for the purpose of ascertaining and settling private land claims in the State of California, by the act of Congress of the United States of America, approved on the 3d of March, 1851, entitled "An act to ascertain and settle the private land claims in the State of California," did, on the 11th day of April, 1853, by their decision of that date, decide against the claim of Juana Sanchez de Pacheco, as the same was presented by said claimant, which claim is No. 168 on the docket of claims before said board, and is for land lying in the said northern district:

And whereas the said claimant has died since the date of said decision, and has, by her last will and testament, devised said land to Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Petra Pacheco, Sylvenia Pacheco, Trinidad Pacheco, Antonio Pacheco, Miguel Pacheco, Maria Ygnacia Pacheco, Daniel Bowen, Juan Peralta, Maria Antonia Peralta, and Maria de los Angeles Peralta: Now the said devisees, together with Juan Soto, husband of the said Petra Pacheco, Joaquin Ysidro Castro, husband of the said Trinidad Pacheco, and guardian of the said Daniel Bowen, a minor, Sebastian Peralta, guardian of the minors, the said Antonio Pacheco, Miguel Pacheco, and Maria Ygnacia Pacheco, Francisco

Garcia, husband of the said Maria Antonia Peralta, Mariano Miranda, husband of the said Maria de los Angeles Peralta, and Joaquin Ysidro Castro and Francis Lightstone, executors of the last will and testament of the said Juana Sanchez de Pacheco, being desirous that the said district court should review the said decision, hereby give notice, that it is their intention to prosecute the appeal from said decision, as is provided by the 12th section of an act entitled "An act making appropriations for the civil and diplomatic expenses of the government for the year ending the 30th June, 1853, and for other purposes," which act was approved on the 31st of August, 1852.

A. P. CRITTENDEN,
Att'y for parties named.

Endorsed: Filed October 17th, 1854.
JOHN A. MONROE, *Clerk.*

Deposition of James Alex. Forbes.

THE UNITED STATES, Respondent,
vs.
ROSA PACHECO and others, Appellants.

Testimony taken on behalf of the above appellants, claimants, before John A. Monroe, U. S. commissioner for the northern district of California, this 20th day of October, A. D. 1854.

Present, the claimants, by their attorney, A. P. Crittenden, and the U. S. district attorney, by Andrew Glassell.

James Alex. Forbes being first duly sworn, deposes and says:

My name is James Alex. Forbes; my age is forty-nine years; my residence is Santa Clara county.

Question. Were you acquainted with Juana Sanchez de Pacheco; and if so, for how long?

Answer. I was; I knew her twenty-five years ago, and knew her until the time of her death, which occurred about a year ago.

Question. Do you know the tract of land claimed in this case called the Arroyo de los Nueces y Bolbones? If yea, where is it situated?

Answer. I am acquainted with the tract of land lying on the eastern side of the arroyo or stream of Nueces, and bounded on the east by the mountains called Bolbones or Golgones. It is north of the thirty-seventh parallel of latitude, lying in an easterly direction from San Francisco, and comprised in what I believe to be the limits of Contra Costa county.

Question. Do you know the boundaries of this tract of land; and if so, how, and when did you first become acquainted with them?

Answer. I am acquainted with the boundaries. In the spring of 1834 I was requested by the deceased Juana Sanchez de Pacheco to accompany her son to that tract of land for the purpose of

making a sketch of that tract of land, for the purpose of petitioning the government for the concession of the tract of land to her, I did accordingly accompany her son, and made a sketch of said land. The sketch which I then made was the same one of which a copy appears in the record in this case, which I now have before me.

Question. Is there or is there not any difficulty in tracing upon the ground the boundaries of said tract as they are designated in this map, and the grant?

Answer. There is no difficulty. The northern boundary is a line running from the low hills near the laguna del Monte Diablo; thence due west until it touches the arroyo de Nueces, and is the dividing line between this land and the land of the Monte Diablo ranch of Salvio Pacheco. The eastern boundary is the ridge of hills aforesaid of Bolbones or Golgones. The western boundary is the Arroyo de Nuces. The southern boundary is a line running from the intersection of the Arroyo de las Nueces, and that called Ingerto, due east up to the aforesaid Sierra de Golgones, and along a ridge of low hills which commences at the point of intersection of the aforesaid two streams.

Question. Do you know anything about the occupation of this land by Juana Sanchez de Pacheco? If yea, state it.

Answer. I do know that her son, under her orders, built a corral and house, and placed a large number of cattle on the place, and that her family have been in possession ever since. The cattle were placed there within a month after the concession, as I believe. Her son Francisco went to work there within a month after I made the said sketch, and he commenced building a corral immediately.

Cross-examined.

Question. What were your data, and by what authority did you mark out the above boundaries as the limits of the said rancho?

Answer. I was requested, as I have aforesaid, by Juana Sanchez de Pacheco, to make the sketch, and I made it according to the directions of her son.

Question. Have you any interest in the confirmation of this claim?

Answer. None whatever.

JAS. ALEX. FORBES.

Sworn to and subscribed before me this 20th day of Oct., A. D. 1854.

JOHN A. MONROE,
U. S. Comm'r.

UNITED STATES OF AMERICA,
Northern District of California, ss.

I, John A. Monroe, a commissioner duly appointed by the district court of the United States for the northern district of

California, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, the witness is material and necessary in the cause in the caption of the said deposition named, and that the said deposition was taken in pursuance of an order of court made on the 17th day of October, A. D. 1854.

I further certify that on the 20th day of October, in the year of our Lord one thousand eight hundred and fifty-four, I was attended by the attorney for the claimants, and the U. S. dist. att'y, who appeared by Andrew Glassell, and by the witness, who was of sound mind and lawful age, and the witness being by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the deposition being by me reduced to writing, in the presence of the witness and from his statement, and after carefully reading the same to the witness, he subscribed the same in my presence.

I have retained the said deposition in my possession for the purpose of delivering the same with my own hand to the court for which the same was taken.

And I do further certify, that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof, I have hereunto set my hand and seal this 21st day of October, in the year of our Lord one thousand eight hundred and fifty-four, and of the independence of the United States the seventy-ninth.

JNO. A. MONROE,
United States Commissioner, duly appointed by the District Court of the United States for the Northern District of California.

Endorsed: Filed October 20th, 1854.

JOHN A. MONROE, *Clerk.*

Notice to prosecute Appeal.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 11th September, 1854.

JUANA SANCHEZ DE PACHECO
vs.
THE UNITED STATES.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of June, 1854, the appeal in the district court of the United States for the northern district of California will be prosecuted by the United States.

CUSHING,
Attorney General.

Endorsed: Filed October 21st, 1854.
JOHN A. MONROE, *Clerk.*

Deposition of Jose Fernandez.

U. S. District Court.

ROSA PACHECO & als. vs. UNITED STATES. } Testimony before comiss'r, taken Oct. 24, A. D. 1854.

James Alexander Yowel, being duly sworn as interpreter, duly swore José Fernandez, who said he was fifty-five years of age, and resides in Santa Clara. I am acquainted with the tract of land known as Arroyo de los Nueces y Bolbones; have known it since 1826; Francisco Pacheco first occupied—the son of Juana Sanchez de Pacheco; he first occupied it in 1833; he took some cattle there and built a small wooden house; I think he built the house between the years 1833 and 1834; I know when the grant was made to Juana Sanchez de Pacheco; the house was built before the grant; they built the house when the cattle were taken there; Francisco Pacheco occupied the house; he did not cultivate any land to my knowledge; he lived some seasons in San José, and some seasons on the ranch; he went to the ranch to brand his cattle, and staid there several months.

When he was absent, no one was on the rancho; no one took care of the cattle but Pacheco himself; his nephews, relatives of the family, and friends assisted him, when necessary; the sons of Juan Soto, which are grandsons of Juana Sanchez de Pacheco, have lived there; she never lived there, but I have seen her go there; I don't know whether others have lived there or not; since the year 1835, I have not been there; I went in that year to assist Francisco Pacheco in the branding of cattle, and he was then living there; I have seen the owners of the rancho go there in the branding season, and from that know they were there.

Cross-examined.

I have been on the rancho in 1835, and never before or since; I

then assisted in branding cattle. Juana Sanchez de Pacheco at that time was living in the Pueblo of San José. I have no interest in this matter.

JOSÉ FERNANDEZ.

Deposition of Vicente Juarez.

Vicente Juarez, duly sworn, says: I am forty-one years of age, and live in San José. Know the rancho called the Arroyo de las Nueces; have known it since 1833. The deceased, Francisco Pacheco, first occupied it. In 1833 I stopped in the house with him, and he then had a house and cattle on the place. The cattle belonged to his mother, Juana Sanchez de Pacheco; don't know how long he lived there. I used to go there with him in certain seasons to herd cattle. Francisco Pacheco is dead. I was on the rancho with him for three months; I was there last Sunday, and have been there a good many times. Sometimes the son-in-law of Mrs. Pacheco, and sometimes his sons, staid on the ranch.

Cross-examined.

We were at work on the rancho building a corral to tame horses; I know who the cattle belonged to because I helped brand them, and put her mark on them. The son and all the grandchildren who were there employed me. I have no interest in this suit.

Direct resumed.

The cattle remained on the rancho up to the present time. She commenced with about five hundred head of cattle.

VICENTE JUAREZ.

Sworn to before me this 24th day of October, A. D. 1854.

JOHN A. MONROE,
U. S. Comm'r.

UNITED STATES OF AMERICA,
Northern District of California, ss.

I, Jno. A. Monroe, a commissioner duly appointed by the district court of the United States for the northern district of California, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,' passed March 1st, 1817," and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the reason for taking the foregoing depositions is, and the fact is, the witnesses are material and necessary in the cause in the caption of the said depositions named,

and that the said deposition was taken in pursuance of an order of court made on the 17th day of October, A. D. 1854.

I further certify that on the 24th day of October, in the year of our Lord one thousand eight hundred and fifty-four, I was attended by the att'y for the claimants and the U. S. dist. attorney, who appeared by Andrew Glassell and by the witnesses, who were of sound mind and lawful age, and the witnesses being by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the depositions being by me reduced to writing in the presence of the witnesses, and from their statement, and after carefully reading the same to the witnesses, they subscribed the same in my presence.

I have retained the said depositions in my possession for the purpose of delivering the same with my own hand to the court for which the same were taken.

And I do further certify that I am not of counsel nor attorney for either of the parties in the said depositions and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof I have hereunto set my hand and seal, this 24th day of October, in the year of our Lord one thousand eight hundred and fifty-four, and of the independence of the United States the seventy-ninth.

JNO. A. MONROE,
United States Commissioner, duly appointed by the District Court of the United States for the Northern District of California.

Endorsed: Filed October 24th, 1854.
JOHN A. MONROE, *Clerk.*

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS,
San Francisco, May 6th, 1852.

SAMUEL D. KING, Esq.,
Surveyor General.

SIR: There is pending before the board of commissioners a petition in favor of "Juana Sanchez de Pacheco," being No. 168 on the docket of the board, claiming a tract of land under a grant from Governor Figueroa to the petitioner, dated July the 31st, 1834, which tract of land is called "Arroyo de las Nueces y Bolbones," and is described as follows:

It lies between the "arroyo" (creek) of "las Nueces" and the "Sierra de los Golzones," comprising two square leagues.

Will you please inform the board whether the Mexican archives in your office show that such a grant was made; whether it was

approved by the territorial or departmental deputation, and when; whether the papers relating to said grant appear in all respects fair and genuine; and whether any particular circumstances have come to your knowledge calculated to cast suspicion on the fairness and validity of the claim.

Very respectfully yours,

(Signed) GEO. FISHER, *Sec'y.*

SURVEYOR GENERAL'S OFFICE,
San Francisco, May 27, 1852.

To the Secretary of the Commissioners of California Land Claims:

SIR: In reply to your inquiry No. 160, I have the honor to state that there is among the archives in this office an expediente No. 36, purporting to show that such a grant was made as is specified in your inquiry.

Said document shows the approval of the territorial deputation, July 22d, 1834.

The papers in that case appear to be fair and genuine, and I know of nothing among said archives calculated to cast suspicion thereon.

Very respectfully, yours,
W. KING,
For SAM'L D. KING,
Surveyor General.

I, George Fisher, secretary of the board of United States commissioners to ascertain and settle the private land claims in the State of California, hereby certify that the foregoing is a full, true, and correct copy of a paper on file among the archives of said board, and in my care and custody as such secretary.

Witness my hand this 17th day of Nov., 1853.

GEO. FISHER, *Sec'y.*

Deposition of William Welch.

U. S. Dist. Court.

JUANA SANCHEZ DE PACHECO vs. UNITED STATES. } Arroyo de las Nueces.

Testimony taken before Jno. A. Monroe, U. S. Commiss., Nov. 2d, 1854.

Present, A. Glassell, for the U. S. dist. att'y; and E. D. Baker, A. P. Crittenden, for claimants.

William Welch, a witness produced, sworn, and examined on behalf of the United States, says: I am 27 or 28 years of age; reside in Contra Costa. I have lived there 13 or 14 years; know the ranch claimed by Juana Sanchez de Pacheco; have known it

13 or 14 years; I lived near it. I lived on the side of the Nueces creek and kept the cattle for my father. There never was any improvements until the Americans came. The cattle were on the hills. The widow Pacheco lived at San José. A house was built four years ago; there was no house until then; I am quite sure there was no house till that time; the cattle of the widow Pacheco were on the place; first knew of her having cattle there 13 or 14 years ago; no one lived on the place to take care of them; every year a vaquero would come from San José and mark the cattle. The cattle were wild and were not watched. I never saw a sign of a house on the place.

Cross-examined.

I was born at San José; my father's name was Wm. Welch, and my mother's Antonia Galinda de Welch. My father's place was called Rancho de Welch. I now live with my father. The rancho de las Nueces is separated from my father's ranch by the creek de las Nueces. There is no dispute between the heirs of Pacheco and my father. Don't know how large the Pacheco ranch is. The creek I speak of is the arroyo de las Nueces; it is one of the boundaries of the widow Pacheco's ranch; the rancho of Salvio Pacheco is one of the other boundaries; don't know the other boundaries; my father got the grant before I went there. Knew all the Pacheco family; saw Francisco Pacheco on the ranch. Sometimes the boys of Juan Soto and the family came to help mark the cattle; they gathered the cattle every year to mark them; don't know whether they ever sold any or not; don't know whether there was a house there before I went there or not; sometimes my father lived at San José, but all the time he kept a man on the rancho. I have no interest in this claim. The court called on me to give testimony; I was subpœnaed, and the subpœna was handed to me by a person whose name I don't know. The person who gave me the subpœna lives the other side of my house on the Pacheco rancho, across the creek from me. I have told the person who gave me the subpœna that I knew what I have testified to. The person who subpœnaed me paid me for coming. He gave me ten dollars, that is all, to pay my board and expenses.

his
WILLIAM ⋈ WELCH.
mark.

Sworn to and subscribed before me this 2d day of November, A. D. 1854.

JNO. A. MONROE,
U. S. Com'r.

Endorsed: Filed November 2d, 1854.
JOHN A. MONROE, *Clerk.*

Deposition of Jose Joaquin Morada.

U. S. Dist. Court, northern district of California.

THE UNITED STATES
vs.
ROSA PACHECO et als. } No. 46.

Being an appeal from the U. S. board of land commissioners for the State of California, in case No. 168 on the docket of said board of land commissioners.

Deposition of Jose Joaquin Moraga, taken in behalf of the claimants on the 15th day of November, 1854, before W. H. Chevers, a U. S. commissioner for said court.

1st question. What is your name, age, and place of residence?

Answer. José Joaquin Morada; I am going on sixty years of age; I live in Contra Costa county.

2d question. Do you know the rancho owned by Juana Sanchez de Pacheco, called "Las Nueces y Bolbones?" If yea, how long have you known it?

Answer. I know said rancho, and have known it since 1832.

3d question. Do you know anything about the occupation of this rancho by the late Juana Sanchez Pacheco or her family? If yea, state all that you know about it.

Answer. All her lifetime she occupied it, and her son, who is now dead. They entered on to it, with cattle, about the year 1832 or 1833, and the son took care of it until he died, which I think took place in the year 1842, but I am not certain. It has always been so occupied up to this time. They put a small house there, not a large one, but sufficiently so to live in. Some Indians came and burned it down. They put the house there about the time the cattle were placed there, about the year 1832 or 1833, and used to live in it—come and go occasionally. Before the house was burned down it was up for one or two years, perhaps more. I am not certain as to the length of time. The grandsons of Doña Juana Pacheco used to come there and take care of the cattle. The cattle were the property of Doña Juana Sanchez de Pacheco. After the said house was burned down, they built a stick house to live in while they were taking care of the cattle; and since then her grandchildren have built a house, which is still on the rancho.

4th question. Were there any Indians about there from 1832 to 1840; if yea, were they hostile or friendly?

Answer. Between those years there were hostile Indians about there. Even after the year 1840, I think there were hostile Indians about there. It was very dangerous for families to live about there at that time, and on that account we kept together as much as possible.

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Cross-examined by U. S. Dist. Att'y.

1st question. How often have you been on the said rancho, and when?

Answer. I have been on the said rancho an infinite number of times, and during the time she occupied the rancho.

2d question. How long at a time did Juana Sanchez de Pacheco ever live on the said rancho, and when?

Answer. She used to come there and stop three or four days at a time, to attend to her business, then go home again. She has been in the habit of so doing since she has claimed it, until she died.

3d question. Where were you living during the time Juana Sanchez de Pacheco occupied the said rancho, as you have said, and what was your occupation?

Answer. I was living part of this time at Temascal of San Antonio, 5 or six leagues from said rancho, and part of the time at my own rancho, which is about 4 leagues from said rancho; I am a ranchero myself.

Witness. JOSÉ JOAQIN his ✕ mark. MARAGA.

The above testimony was given in Spanish, and translated into English by J. Alex. Yoell, who was duly sworn to translate.

Sworn to and subscribed before me this 15th of November, A. D. 1854.

W. H. CHEVERS,
U. S. Comm'r.

Deposition of Jose Castro.

José Castro, being duly sworn on the part of the claimants, deposes and says:

1st question. What is your name, age, and place of residence?

Answer. My name is José Castro; age 46 years; I reside in Monterey.

2d question. Have you ever held any office or offices in California; if yea, what offices, and when?

Answer. I have held various offices. The principal offices are political chief, prefect, and latterly commander in chief; political chief in the years 1834 and 1835; prefect in 1839, and part of 1840; I was commander-in-chief in 1845 and 1846.

3d question. Do you know anything of any decree made by any authority in California, requiring the inhabitants to reside in the pueblos? If yea, state when any such decree was made, why it was made, and by whom, and the nature of it.

Answer. I, as political chief and as prefect, gave an order to the alcaldes, subordinate to those offices, that they should require the neighboring rancheros, who were troubled by the Indians, to live

in the pueblos, in consequence of the persecutions of the Indians. I gave this order when I was political chief in 1834 and 1835, and again when I was prefect in 1839 and 1840. There were like orders given by Figueroa, Micheltorena, and Alvarado. These orders were given to preserve the innocent lives of the women and children, and of the rancheros themselves.

4th question. Up to what period were these orders in force?

Answer. Up to the time the country was taken possession of by the Americans.

5th question. Do you know where the rancho of the late Juana Sanchez de Pacheco, called "Las Nueces y Bolbones," is situated?

Answer. I do know about where it is situated, though I have never been on the rancho.

6th question. Do you know anything of the state of that part of the country in regard to its being exposed to the hostilities of the Indians, from the year 1832 down to 1846? If yea, state what you know.

Answer. I do know what the state of the country was during that period. It was considered one of the most dangerous parts of the country. The country was considered dangerous on account of the Indians, even to within a league of the pueblos.

7th question. Do you know what was considered by the government of California requisite on the part of a grantee of land, in order to comply with the condition usually inserted in grants in regard to occupancy or inhabitancy? If yea, state it.

Answer. I do know. Only the occupation of the land with cattle, sheep or horses, and the occasional presence, at times, of the owner, was recognised as sufficient possession or cultivation.

8th question. Do you know of any instance in which the government considered land to have been abandoned, when the owner kept his cattle upon it?

Answer. Never, by no authority.

9th question. Were the orders you have spoken of as being made by yourself and others, in writing?

Answer. Some were in writing and some by word; 10 or 12 of the neighbors would come with representations, and orders would be given to the judges, some in words and some in writing.

10th question. When in writing, to whom were they delivered and what became of them?

Answer. When in writing, they were sent to the alcaldes and judges. Sometimes they were kept by the alcaldes and sometimes by the complainants themselves.

Cross-examined by U. S. Dist. Att'y.

Question 1st. Were the decree and orders, of which you have spoken, enforced?

Answer. The orders were given at the request of the parties

themselves, who made their complaints to the authorities and asked for troops to protect them from the Indians; and there being none at the disposal of the authorities, orders were given to the alcaldes to permit them to gather or assemble in the pueblos, for the security of their families, without forfeiting their right in any manner. These are the orders and decrees of which I have spoken.

Question 2d. How do you know what the government considered sufficient occupation to comply with the conditions of the grants in such cases?

Answer. Because, when not in office myself, being near and intimate with the authorities, I knew their decisions in matters of justice, and for that reason I knew what they decided with respect to the lands.

JOSÉ CASTRO.

The above testimony was given in Spanish, and was translated into English by J. Alex. Yoell, who was duly sworn to translate.

Sworn to and subscribed before me, this 15th day of November, 1854.

W. H. CHEVERS,
U. S. Comm'r.

Endorsed: Filed November 16th, 1854.
JOHN A. MONROE, *Clerk.*

Deposition of James Alexander Forbes.

United States District Court, northern district of California.

SAN FRANCISCO, *Nov'r 30th*, 1854.

On this day, before W. H. Chevers, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came James Alexander Forbes, a witness produced on behalf of the claimants, in case No. 46, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 168 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present, the claimants by their attorney, A. P. Crittenden, and the U. S. district attorney, by A. Glassell, esq.

Questions by Claimant's Att'y.

Question 1st. What is your name, age and place of residence?

Answer. James Alex. Forbes; my age 49 years; my residence is Santa Clara county.

Question 2d. Are you acquainted with William Welch; if yea, how long have you known him?

Answer. I am; I have known him since he was quite a small boy. He is the son of Wm. Welch, deceased, and his mother's name is Maria Antonio Galinda.

Question 3d. Where has he lived since you knew him?

Answer. For a short time at the mission of Santa Clara; up to 1845 on a rancho about two leagues to the north of San José, in Santa Clara county; and posterior to that time, on the land or rancho granted to his father, situated in Contra Costa county, near the town of Martinez. He lives somewhere in that vicinity now.

Question 4th. Do you know his general reputation in point of veracity in the community in which he has lived and now lives; if yea, what is it?

Answer. I know his general reputation, and know it to be bad. I know that the manner in which his father treated him had a tendency to destroy all moral sentiment in him.

Question 5th. Would you believe him on oath?

Answer. I would not, were he in any way interested.

Question 6th. Do you know of any interest or feeling which might influence him in this case?

Answer. I know he cherishes animosity, which his father had before him, against the deceased Juana Sanchez de Pacheco and her son, arising out of a transaction concerning cattle, which the latter had with the deceased Welch, the father of this individual in question.

Question 7th. Is William Welch, the father, living or dead?

Answer. He did in the year 1845.

Question 8th. Is it true that William Welch, the son, has lived for 13 or 14 years last past in Contra Costa county, on the ranch granted to his father?

Answer. He has not lived there permanently for that length of time; but he has from the year 1845, or in that vicinity.

Question 9th. You have spoken in a former deposition of the boundaries of the tract of land claimed in this case by the heirs of Doña Juana Sanchez de Pacheco; state, if you please, whether or not there is any natural object which determines the starting point of the southern line?

Answer. There is a natural object at the commencement of that boundary; I think it is so denominated on the sketch of the land in question; that natural object is called the "Ingerto," which means a grafted tree, and in fact there is a grafted tree at the commencement of that boundary, as far as my recollection serves; I think it is a laurel; it is universally known by that name among the people of the country; it stands on the eastern side of the stream known by the name of the Arroyo del Ingerto, or stream of the grafted tree, and near its junction with another little stream running from the westward called the Arroyo de las Nueces, and immediately at the commencement of a low range of hills which run eastwardly towards the mountains called Golgones, which low hills form the southern boundary of this tract. The Arroyo de las Nueces aforesaid

had, at the time I made the sketch of the said tract, several sloughs or ditches running into the Arroyo del Ingerto; this grafted tree stands near the southernmost.

Question 10th. Do you know anything about this section of country being unsafe in consequence of the hostility of Indians? If yea, state it.

Answer. I know that all that section of country lying north of the mission San José was unsafe for families, or for less than 3 or 4 persons together; that particular tract was a hiding place of the Indians; I knew of two individuals who were killed by the Indians on that tract; this was the principal route by which the Indian tribe of horse-thieves came into the settlements and left. This state of things continued up to the year 1843.

Question 11th. Do you know of any order or permission from the authorities of California for families owning land in exposed situations like this to live in the pueblos?

Answer. I know of a permission from the alcalde of San José, which was tantamount to an order for families in those exposed situations to retire to the pueblo San José, or to the missions in the vicinity; I know it from general report; it was generally acted upon.

Question 12th. Do you know of any instance in which the authorities objected to families leaving their land under such circumstances, or of any instance in which the gov'mt forfeited their land for so doing?

Answer. I do not; had such an instance occurred in that part of the country, I would have heard of it.

Cross-examined by U. S. Dist. Att'y.

Question 1st. What are your means of ascertaining what is the character and general reputation of said Wm. Welch for truth?

Answer. I have known him intimately since he was a boy; I knew the whole family, every individual of them; and moreover my avocations were such as to cause me to be intimately acquainted with the native California population, and to ascertain their reputation.

Question 2d. How do you know that he now entertains any animosity against the present claimants in this case?

Answer. Because I have heard conversations in the family, in which he expressed a decided animosity against said Pacheco family.

JAS. ALEX. FORBES.

Sworn to and subscribed before me this 30th day of November, 1854.

W. H. CHEVERS,
U. S. Commissioner.

Endorsed: Filed November 30th, 1854.
JOHN A. MONROE, *Clerk.*

Answer.

In the District Court of the United States for the northern district of California.

THE UNITED STATES, Appelles,
vs.
JUANA S. DE PACHECO, revived in the name of Rosa Pacheco et al. } No. 46.

The United States, by their attorney, deny the validity of the title set out in the petition of the said appellants, and pray that the decision of the board of commissioners be affirmed, and that the said title be decreed to be invalid.

A. GLASSELL,
Ass't U. S. Att'y.

Endorsed: Filed July 7th, 1855.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Petition.

To the Honorable District Court of the United States in and for the northern district of California.

THE UNITED STATES, Appellants,
vs.
JUANA SANCHEZ DE PACHECO, revived in the name of Rosa Pacheco et al. } No. 46.

The petition of the United States, by their attorney, represents that this cause is an application for a review of the decision of the board of commissioners, whereby the claim of the said appellee was confirmed, as appears by reference to the records in the case; that a transcript of the said records was filed in this court on the day of ; that a notice of appeal was filed on the day of , and that the land claimed lies in the said district; that the said claim is invalid; wherefore appellants pray that the said decision of the board be reversed, and that this court decree the said title to be invalid.

Respectfully, &c.,
A. GLASSELL,
Ass't U. S. Att'y.

Endorsed: Filed July 7th, 1855.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Answer.

In the District Court of the United States for the northern district of California.

THE UNITED STATES, Appellants,
vs.
ROSA PACHECO et als., Appellees. } No. 46.

For answer to the petition of the appellants filed herein the said appellees deny that their claim is invalid, but say that the same is good and valid, and pray its confirmation to them to the full extent of the land embraced within the boundaries specified in the decree of concession and the grant which are set forth in the transcript of the record in this case.

A. P. CRITTENDEN,
Att'y for Appellees, Rosa Pacheco et als.

Endorsed: Filed July 17th, 1855.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Affidavit of Joaquin Ysidoro Castro.

District Court of the United States for the northern district of California.

THE UNITED STATES
vs.
ROSA PACHECO et als.

Joaquin Ysidro Castro, being duly sworn, deposes and says, that he is one of the parties in this case, and one of the executors of Dña. Juana Sanchez de Pacheco, deceased; that in the year 1842, or 1843, he saw in the possession of the said Dña. Juana Sanchez de Pacheco, the original title or grant made to her by Don José Figueroa, a copy of which appears in the transcript of the record in this case; that he read the said original, and that he believes that the copy set forth in said transcript is a true copy thereof; that not long after he last saw the said original in the year 1842, or 1843, he understood from the said Dña. Juana Sanchez that it was lost or mislaid, and so afterwards always understood from her and from the members of her family; that he has himself made diligent search for it, but has been unable to find it, and that it is not amongst the papers of said Dña. Juana Sanchez, which have come into the hands of her executors, Francis Lightstone and this deponent.

JOAQUIN Y. CASTRO.

Sworn and subscribed before me the 17th July, 1855.
W. H. CHEVERS,
U. S. Comm'r.

Endorsed: Filed July 17th, 1855.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Deposition of James Alex. Forbes.

United States District Court, northern district of California.

ROSA PACHECO et al.
vs.
THE UNITED STATES.

SAN FRANCISCO, *Sept. 15th*, 1855.

On this day, before John A. Monroe, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Alexander Forbes, esq., a witness produced on behalf of the claimants, in case No. 46, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 168 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present, A. P. Crittenden, esq., counsel for cl'ts, and the U. S. dist. att'y, by A. Glassell, esq.

Question 1st by claimants. Were you acquainted with Doña Juana Sanchez de Pacheco, dec'd, and the members of her family; if yea, since when?

Answer. I was acquainted with Doña Juana Sanchez de Pacheco from 1829 till her death, and have been acquainted with her family since the same time, 1829.

2d. Can you give the names of all her children? If yea, please state them.

Answer. She had seven daughters and one son. Her son's name was Francisco. Her daughters were named Rosa, Petra, Encarnacion, Francisca, Sylvena, and Tomasa and Trinidad.

3d. Are any of her children dead; if yea, which of them?

Answer. Francisco and Tomasa are dead.

4th. Did Francisco and Tomasa leave any children; if yea, what are their names?

Answer. They both left children. Tomasa married a man named Thomas Bowen, and left one child, who is now living, named Daniel Bowen. Francisco left three children, who are all minors, and now living. Their names are, Antonio, Miguel, and Maria Ygnacia. He had several more children, who, to the best of my recollection, are dead.

5th. Are any of the daughters of Doña Juana Sanchez de Pacheco married; if yea, to whom?

Answer. All of the daughters have been married. Those now living are all widows, with the exception of Trinidad, who is married to Joaquin Ysidro Castro. Juan Soto, the husband of Petra Pacheco, died within the last two months.

6th. Did you ever see the original grant of the tract of land claimed in this case to Doña Juana Sanchez de Pacheco; if yea, when, where, and in whose possession?

Answer. I saw it in the autumn of 1834, in the hands of the late Dña. Juana Sanchez de Pacheco, herself, in her house in San José

7th. Did you ever read it?

Answer. I did. She showed it to me in consequence of my having made the petition for the land for her, and the sketch of it; she showed it to me that I might see whether it was in proper order.

8th. Do you know what has become of it?

Answer. I do not.

9th. Please examine the paper purporting to be a copy of the grant, and which appears on pages 19, 20, 21 of the transcript in this case (the same bearing date the 31st of July, 1834, and purporting to be signed by José Figueroa and by Agustin V. Zamorano, sec'y,) and say whether or not it is a true copy of the original grant which you examined?

Answer. I have examined the paper referred to, and believe it to be a true copy of the original grant which I saw. I would mention that I knew all about this grant, and the circumstances under which it was made. I knew Dña. Juana well; was with Gov'r Figueroa at her house, and present at the first conversation between herself and Gov. Figueroa about land, in the course of which he told her to apply for a grant. I drew up the petition for her, and before doing it went upon the land and made a sketch of it; afterwards, as I have stated, I examined the grant to see if it was correct.

10th. What is your age, and where do you reside?

Answer. I am fifty years of age, and reside in Santa Clara; I have lived in California since 1829.

11th. Have you any interest in this claim, or in the event of this suit, direct or indirect?

Answer. None, whatever; I never had any interest in it.

JAS. ALEX. FORBES.

Endorsed: Filed September 15th, 1855.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Will of Dna. Juana Sanchez de Pacheco, and Probate.

Be it remembered, that heretofore, to wit, on the 26th day of September, A. D. 1853, there was filed in the probate court of Santa Clara county, State of California, a paper purporting to be the last will and testament of Juana Sanchez de Pacheco, deceased, which is in the words and figures following, to wit:

En el nombre de Dios Todopoderoso. Amen.

Yo Juana Sanchez de Pacheco, declaro lo siguiente ser mi ultima voluntad y testamento; a mi hija Petra declaro que le di cincuenta reses de mi ganado, como tambien a cada una de mis hijas siguientes las he dado igual cantidad de ganado, es decir Sylveria, Francisca, Trinidad, Encarnacion, y Rosa y Paulina. Dejo a Daniel Boun mi nieto cincuenta reses y tambien seis vacas mansas, a los hijos de mi hijo Francisco el difunto les dejo cincuenta reses y seis vacas mansas entre los tres, y el resto de mi ganado declaro que se repartira entre todas mis hijas. Dejo la casa que habito en la ciudad de San José en la Calle del Mercado ó Pacheco a las tres hijos que dejo mi antedicho hijo Francisco junto con el solar y huerta. Dejo a las siguientes mis hijos y nietos, a cada una de mis hijas, quinientas acres de tierra de mi rancho de San Miguel en el condado de Contra Costa a saver Rosa, Francisca, Encarnacion, Trinidad, Sylveria, y mi nieto Daniel Boun y a los tres hijos de mi hijo difunto Francisco dejo quientas acres entre los tres, tambien dejo a los tres hijos de mi difunta hija Paulina, quinientas acres entre los tres. Declaro que el sobrante de mis terrenos de mi rancho antedicha seran repartidos entre mis hijas y nietos por iguales partes pero los tres hijos de la antedicha paula se contara por una como tambien los del difunto mi hijo Francisco se contara por una y Daniel Boun por una tambien. Nombro por albaceas de esta mi ultima voluntad y testamento mi llerno Joaquin Ysidro Castro de San Pablo y Francisco Lightston de San José para que hagan como he dispuesto. Asi firmo en la ciudad de San José hoy dia veinte y seis de Agosto, de 1853. Declaro queme debe mi hija Trinidad un mil pesos que entregara a mis albaceas para distribuir. Fecha ut supra.

Palasus "entre los tres" antes de firmar,

su
JUANA SANCHEZ ⋈ DE PACHECO.
marca.

Linea 15, hoja 1o.
Witnesses: J. ALEXANDER YOELL,
JOSÉ H. SCULL.

Codicilo puesto por mi orden hoy dia 30 de Agosto, 1853.

Mando que no se exigiera de mis albaceas Joaquin Ysidro Castro y Francisco Lightston, ninguna fianza a respeto de lo antecedente mi testamento. Dejo cincuenta pesos de limosna a las Iglesia Catolica en esta ciudad de San José mando que se me entierre adentro de la Iglesia Catolica de Santa Clara y que se me diga una misa mayor para el bien de mi alma. La casa que habito y que antes habia dejado a mis nietos con la huerta y solar es decir a los hijos de mi hijo Francisco, dijo a beneficio de todos mis hijos y nietos, los tres hijos de Francisco, representando una parte, los

tres hijas de mi hija Paulina una parte y mi nieto Daniel Boun otra parte, y cada una de mis hijos una parte y para que tenga la fuerza competente lo firmo hoy dia 30 de Agosto, de 1853.

"Polasures" hijos en las dos lineas interliniadas fueron hechas antes de firmar tambien las palaseras huerta y solar.

su
JUAN SANCHEZ ✕ DE PACHECO.
marca.

Witnesses: J. ALEXANDER YOELL,
JOSÉ H. SCULL.

In the matter of the probate of the last will and codicil of Juana Sanchez de Pacheco, deceased, set for probate at the court-house, in the city of San José, this 26th day of Sept., 1853.

J. H. Scull, one of the subscribing witnesses, being sworn, says, that the name signed to the will of Juana Sanchez de Pacheco, as a witness, is his true name; that he subscribed the same in the presence of the other subscribing witness; she, the testatrix, signed her name with a cross, she not being able to write; the name was written by Mr. Yoell, the other subscribing witness; that the contents of the said will was read over to the testatrix by this witness before the testatrix signed the same; that the testatrix, at the time of signing the will and before, was of sound mind and disposing memory; that she was, as far as I, witness, could see, free from restraint or influence at the time of making said will.

JOSEPH H. SCULL.

Sworn and subscribed to in open court, this 26th Sept., 1853.
Attest:

H. C. MELONE, *Clerk.*
By JNO. B. HUESON, *D. C.*

J. A. Yoell, one of the subscribing witnesses to the aforesaid will, being duly sworn, saith, that he is a subscribing witness to the last will and codicil of Juana Sanchez de Pacheco, dec'd, presented to this court for probate; that he was present with the other subscribing witness at the execution of the same, and that the contents of the same was read over and made known to the testatrix in the presence of this witness, and the other subscribing witness, before the testatrix signed the same; and by the request of the said testatrix, I, witness, wrote the name of the testatrix to the will, and she, the testatrix, signed the same with her mark; that the testatrix was of sound mind and disposing memory at the time of executing the same; that she (the testatrix) was free from restraint or influence at the time of executing the same.

J. ALEXANDER YOELL.

Sworn to in open court, this 26th day of Sept., 1853.
Attest:

H. C. MELONE, *Clerk.*
By JOHN B. HUESON, *D. C.*

It is therefore ordered by the probate court that the said last will and codicil of Juana Sanchez de Pacheco, deceased, filed in court for probate this day, be probated and recorded, and that letters of executorship issue to Joaquin Isidore Castro and Francisco Lightstone, in pursuance of the will this day admitted to probate under the seal of this court with the will annexed.

J. W. REDMAN,
Probate Judge of Santa Clara Co., Cal.

Attest:
H. C. MELONE, *Clerk.*
By JOHN B. HUESON, *D. C.*

Filed Sept. 26th, 1853.

H. C. MELONE, *Clerk.*
By JOHN B. HUESON, *D. C.*

And on the 26th day of September, A. D. 1853, that being a day of a term of said probate court, among other proceedings the following were then and there had and entered on the minutes of said court, to wit:

In the matter of the probate of the last will and codicil of Juana Sanchez de Pacheco, deceased.

A paper purporting to be the last will and codicil of Juana Sanchez de Pacheco, deceased, having been filed for probate in the probate court of this county, and this day being set for the probate of said will, and the court being satisfied that public notice had been given of the day set for hearing the probate of said will, and that citations had issued to the heirs and executors named in said will in accordance with law, and the death of the testatrix being satisfactorily proved to the court by the evidence of F. Lightstone, and that she was over the age of eighteen, and not under restraint, and the evidence of subscribing witnesses being heard, and no opposition appearing, and the court being satisfied that said will was duly executed, and that the testatrix, at the time of its execution, was of sound mind and disposing memory, and not under restraint:

It is therefore ordered by the probate court, that the said last will and codicil of Juana Sanchez de Pacheco, deceased, filed in court for probate this day, be probated and recorded in this court, together with the evidence of the subscribing witnesses taken in writing.

It is also ordered that letters testamentary do issue to Joaquin Isidro Castro and Francisco Lightstone, the executors named in

said will, who came forward and in open court took the oaths required by law.

It is further ordered by the court, that the following persons, to wit, Asa Bowen, Peter Davidson and J. M. Murphy, be and they are hereby appointed appraisers of said estate.

STATE OF CALIFORNIA,
County of Santa Clara, ss.

I, John B. Hewson, county clerk of Santa Clara county, and ex officio clerk of the probate court of said county, do hereby certify that the foregoing is a true and perfect transcript of the will and codicil of Juana Sanchez de Pacheco, deceased, the testimony of the subscribing witnesses thereto, the certificate of the proof thereof, and of the order admitting the said will to probate, and granting letters testamentary, as taken from the records of said probate court; and I do further certify, that in accordance with the said order, Francis Lightstone and Joaquin Ysidoro Castro, the executors named in said will, were duly qualified, (there being no bond required of them in said will,) and that letters testamentary were duly issued to them in accordance with the said order, and that the same have not been revoked or annulled.

In testimony whereof, I have hereunto set my hand and affixed the seal of said probate court, this 2d day of October, A. D. 1855. [SEAL.]

JNO. B. HEWSON, *Clerk.*

Endorsed: Filed March 27th, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Translation of last Will of Juana Sanchez de Pacheco.

In the name of God, All-powerful. Amen. I, Juana Sanchez de Pacheco, declare the following to be my last will and testament:

I declare that I give to my daughter, Petra, fifty head of my cattle, and the same number of cattle to each one of my daughters here named—that is to say, Sylvena, Francisca, Trinidad, Encarnacion, Rosa and Paulina. I leave to Daniel Bowen, my grandson, fifty head of cattle and six gentle cows; to the children of my son, Francisco, deceased, I leave fifty head of cattle and six gentle cows between the three; and the rest of my cattle I wish divided among all my daughters. I leave the house which I occupy in the city of San José, in Merchant or Pacheco street, to the three sons left by my said son Francisco, as also the lot and garden. I leave to each one of my daughters, viz: Rosa, Francisca, Encarnacion, Trinidad, Sylveria, and to my grandson, Daniel Bowen, five hundred acres of land of my rancho of San Miguel, in the county of Contra Costa, and to the three sons of my deceased son, Francisco, I leave five hundred acres to be divided between them; and also to the three sons of my deceased daughter, Paulina, five hundred

acres between the three. I declare that the remainder of the land of my said rancho shall be equally divided among my children and grandchildren; but the three sons of the said Paula shall count as one; and also the children of my deceased son, Francisco, shall count as one; and Daniel Bowen as one also.

I name as executors of this my last will and testament my son-in-law, Joaquin Ysidro Castro, of San Pablo, and Francis Lightstone, of San José, that they may do as I have directed.

I sign this in the city of San José, this 26th day of August, 1853. I declare that my daughter Trinidad owes me one thousand dollars, which she will deliver to my executors for distribution.

Date as above.

her
JUANA SANCHEZ ⋈ DE PACHECO.
mark.

Witnesses: J. ALEXANDER YOELI,
JOSÉ H. SCULL.

Codicil drawn by my order 30th of August, 1853.

I direct that no security shall be required of my executors, Joaquin Ysidro Castro and Francis Lightstone, in regard to this my testament. I leave fifty dollars in alms to the Catholic church in this city of San José. I direct that my body be interred in the Catholic church of Santa Clara, and that a high mass be said for the good of my soul. The house which I inhabit, and which I have before left to my grandsons, with the lot and garden—that is, to the sons of my son Francisco—I leave to all my children and grandchildren, the three sons of Francisco representing one part, the three children of my daughter Paulina one part, and my grandson, Daniel Bowen, another part, and each one of my children one part; and that this may have force, I sign it this 30th of August, 1853.

her
JUANA SANCHEZ ⋈ DE PACHECO.
mark.

Witness: J. ALEXANDER YOELL,
JOSÉ H. SCULL.

Endorsed: Filed March 27th, 1856.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Appointment of Joaquin Teidoro Castro Guardian of Daniel Bowen.

In Probate Court of Santa Clara county, September Term, A. D. 1853, to wit: Monday, September 26th, 1853.

Before the Hon'ble Joshua W. Redman, probate judge.

In the matter of the guardianship of Daniel Bowen, minor, heir of Juana Sanchez de Pacheco, deceased.

Daniel Bowen, a minor, over the age of fourteen years, came

personally into open court and chose Joaquin Ysidro Castro as his guardian, and prays the court to appoint the said Castro his guardian.

Thereupon the court orders that the said Joaquin Ysidro Castro be, and he is hereby appointed guardian of the said minor, Daniel Bowen, and also orders that the said Castro do enter into bonds as said guardian in the sum of ten thousand dollars, within ten days from the date of this order, to be approved by the court as required by law.

STATE OF CALIFORNIA,
County of Santa Clara, ss.

I, John B. Hewson, county clerk and ex officio clerk of the probate court of Santa Clara county, do hereby certify, that the above is a true and perfect transcript of the original orders made by said probate court, on the 26th day of September, A. D. 1853, in the above entitled estate, as the same now appears on the records of said court. And I do further certify, that the said Joaquin Ysidro Castro has given bond and been qualified, and that letters of guardianship have issued to him in accordance with the foregoing order, and that the same have not been revoked.

In testimony whereof, I have hereunto set my hand and affixed the seal of said probate court, at the city of San José, this 25th day of September, A. D. 1855.
[SEAL.]

JNO. B. HEWSON, *Clerk.*

Endorsed: Filed March 27th, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Appointment of Sebastian Peralta Guardian of Jose Antonio Miguel and Maria Ignacia Pacheco.

In Probate Court of Santa Clara county, October Term, A. D. 1853, to wit: Monday, October 24th, 1853.

Before the Hon. Joshua W. Redman, probate judge.

In the matter of the guardianship of the minor heirs of the estate of Juana Sanchez de Pacheco, deceased.

José Antonio de Pacheco, aged fifteen years, and Miguel de Pacheco, aged fourteen years, males, and minor heirs of the aforesaid estate, came personally into open court, and pray the court to appoint Sebastian Peralta as their guardian.

Thereupon it is ordered by the court that the said Sebastian Peralta be and he is hereby appointed guardian of the said José Antonio and Miguel Pacheco; and the said Sebastian Peralta now files a petition praying to be appointed guardian of Maria Ygnacia Pacheco, infant heir of the said estate, under the age of fourteen years.

Thereupon the court also appoints the said Sebastian Peralta guardian of the said infant Maria Ygnacia Pacheco, and orders that he enter into bonds as guardian of the said infant and minor heirs of the aforesaid estate, to wit, José Antonio Miguel and Maria Ygnacia Pacheco, in the sum of sixteen thousand dollars, as required by law, within ten days from the date of this order.

STATE OF CALIFORNIA,
County of Santa Clara, ss.

I, John B. Hewson, county clerk and ex officio clerk of the probate court of Santa Clara county, do hereby certify that the above is a true and perfect transcript of the original orders made by said probate court on the 24th day of October, A. D. 1853, in the above entitled estate, as the same now appears on the records of said court; and I do further certify that the said Sebastian Peralta has given bond and been qualified, and that letters of guardianship have issued to him, in accordance with the foregoing order, and that the same have not been revoked.

In testimony whereof I have hereunto set my hand and affixed the seal of said probate court, at the city of San José, this 25th day of September, A. D. 1855. [SEAL.]

JNO. B. HEWSON, *Clerk.*

Endorsed: Filed March 27th, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Letters testamentary to Joaquin Isidro Castro and Francis Lightstone, executors of Dona Juana Sanchez de Pacheco.

Probate Court of Santa Clara county, September Term, 1853, to wit: September 26th, A. D. 1853.

In the matter of the probate of the last will and codicil of Juana Sanchez de Pacheco, deceased.

A paper purporting to be the last will and codicil of Juana Sanchez de Pacheco, deceased, having been filed for probate in the probate court of this county, and this day being set for the probate of said will, and the court being satisfied that public notice had been given of the day set for hearing the probate of said will, and that citations had issued to the heirs and executors named in said will in accordance with law, and the death of the testatrix being satisfactorily proved to the court, by the evidence of F. Lightston, and that she was over the age of eighteen and not under restraint; and the evidence of the subscribing witnesses being heard, and no opposition appearing, and the court being satisfied that said will was duly executed, and that the testatrix at the time of its execution was of sound mind and disposing memory, and not under restraint:

It is therefore ordered by the probate court that the said last

will and codicil of Juana Sanchez de Pacheco, deceased, filed in court for probate this day, be probated and recorded in this court, together with the evidence of the subscribing witnesses taken in writing.

It is also ordered that letters testamentary do issue to Joaquin Ysodero Castro and Francisco Lightston, the executors named in said will, who came forward and in open court took the oaths required by law.

It is further ordered by the court that the following persons, to wit, Asa Bowen, Peter Davidson and J. M. Murphy, be, and they are hereby appointed appraisers of said estate.

STATE OF CALIFORNIA,
County of Santa Clara, ss.

I, John B. Hewson, county clerk and ex officio clerk of the probate court in and for the county and State aforesaid, do hereby certify that the foregoing is a true and correct copy of the original order admitting the will and codicil of Juana Sanchez de Pacheco, deceased, to probate, and the order appointing the executors of said will, as the same now appears of record in said court.

And I do further certify, that in accordance with said order, letters testamentary were duly issued to the said Joaquin Isidro Castro and Francisco Lightston upon said estate, and that the same have not been revoked or annulled.

And I do further certify, that no bond was filed by the said executors, it being expressly stated in the codicil to the will that no bond should be required of them.

In testimony whereof I have hereunto set my hand and affixed the seal of said probate court, this 8th day of August, A. D. 1855. [SEAL.]

JNO. B. HEWSON, *Clerk.*

Endorsed: Filed March 27th, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Opinion by His Honor Judge Ogden Hoffman.

THE UNITED STATES vs. ROSA PACHECO. } No. 46.

In this case appeals have been taken, both by the U. S. and by the claimants. The board confirmed the title to the land to the extent of two leagues; and the claimants insist that they are entitled to a confirmation of the tract granted by metes and bounds and irrespective of quantity.

With regard to the validity of the grant, no question seems to be raised. In the brief filed on the part of the U. S. it is observed

that "on the general question of the validity of the whole grant, it is not designed to repeat objections and arguments which this court has so often decided to be untenable."

The validity of the title being thus admitted, under the principles laid down under former adjudications of this court, the only question is as to the extent to which it should be confirmed.

The petition was presented to Gov. Figueroa on the 15th May, 1834, and the usual order of reference for information was made. After receiving the report of the ayuntamiento of San Pedro Guadalupe, a further reference was made to the alcalde of Monterey, directing him to examine witnesses to be produced by the petitioner as to her qualifications, as to whether the land was vacant, as to its extent, and nature and as to whether she had the means of stocking it with cattle.

The alcalde accordingly took the depositions of the witnesses, by which it appeared that, as stated by two of them, the land was two and one-half leagues, "a little more or less," long, and about two leagues broad, and, as deposed by the third, that it was two leagues long, more or less, and about two leagues broad.

Upon receiving these reports the governor made the usual order of concession, declaring the petitioner owner of the land between the Arroyo de las Nueces and the Sierra de los Golgones, bounded by the said places, and by the ranchos of San Ramon, Las Juntas and Monte del Diablo, and directing the expediente to be sent to the most excellent deputation for their due approval.

The documents or final title in what would seem to be strict conformity with the colonization laws was withheld until, by the approval of the assembly, the grant had become "definitively valid." On the 11th July, 1834, the assembly by resolution approved the concession made to Doña Juana Sanchez de Pacheco "of the place included between the Arroyo de las Nueces and the Golgones, granted July 11, 1834."

On the 31st July the governor, after referring to the resolution of approval, ordered the title to issue. It accordingly issued on the same day. The title, after reciting that Doña J. S. de Pacheco had petitioned "for the land included between the Arroyo de las Nueces and the Sierra de los Golgones, bounded by the said places and the ranchos of Las Juntas, San Ramon and Monte del Diabolo," and after referring to the resolution approving the grant of the land "between the Arroyo de los Nueces and the Sierra de los Golgones," grants to her "the aforesaid land, declaring to her the ownership of it by these presents and subject to the following conditions."

The fourth condition is a follows:

"The land of which mention is made is two square leagues, a little more or less, as shown by the map which goes with the expediente.

"The magistrate who may give the possession will cause it to be measured in conformity with the ordinance, for the purpose of making out the boundaries, leaving the surplus which may result to the nation for its convenient uses."

It is contended on the part of the U. S., that by this condition the quantity of land is limited to two leagues, a little more or less.

It is urged on the part of the claimants, that the original order of concession, the resolution of approval and the description of the land in the grant itself, clearly show the intention to have been to grant the land as delineated on the diseño and described in the grant, and that if the fourth condition be construed to limit the quantity it is repugnant to the rest of the grant, inconsistent with the previous concession and resolution of approval, and probably introduced by mistake. If such was the intention of the governor when he made the concession, and of the assembly when they approved it, the final title, issued with an express reference to and in avowed conformity with the resolution of approval, should, if possible, be so construed as to give effect to it.

The inquiry, therefore, is, did the governor intend by the fourth condition to limit the quantity of land granted, or is the mention of quantity to be treated as merely a mis-description of the extent of the land, which should, as at common law, yield to boundaries, when the latter are distinctly mentioned, and when such construction is necessary to give effect to the intention of the parties.

In the case of the U. S. vs. Wright it was held by this court, where land has been granted by specific boundaries, which included in fact about eight leagues, and the condition specified the extent as four leagues, a little more or less, the grant could not be construed to embrace the larger quantity. But in that case it appeared that the petitioner himself, as well as the witnesses produced by him, had represented the land as only "three or four leagues in extent." The governor, therefore, in limiting the grant to the quantity represented to be included within the boundaries, either merely carried into effect the understanding and intention of all parties, or else the representations were fraudulent, and the parties to the deception could not in a court of equity be allowed the fruits of their fraud.

It seemed to us in that case that justice would be satisfied, and every substantial right protected by limiting the extent of the land to the quantity which the governor intended to grant, and the petitioner asked for.

But the case at bar is different. The governor was fully apprized of the extent of the land, not only by the testimony of the witnesses produced before the alcalde, but the diseño, which was submitted both to the governor and the assembly, and which is referred to in the condition, shows the land included within the boundaries

to be of about the extent mentioned by the witnesses. The boundaries mentioned in the concession, the resolution of approval, and the grant, are the same as those indicated on the map, and the governor in all probability derived his description of the land from that source. It is clear from this fact, as well as the express language of the condition, that the governor intended to grant the land "as shown by the map," and that map contains a scale which must, independently of other information, have apprized the governor that the quantity was greater than two leagues.

In this, as in all analogous cases, the only object of the court should be to carry out the intentions of the granting power. When, therefore, we find the land granted by specific boundaries, and those boundaries represented to the grantor to contain a certain quantity, when the grantor's attention has been directed to the point, and, on ascertaining that the quantity is the same as that represented, he nevertheless proceeds to grant all the land within those boundaries, and refers to the map, which clearly indicates the quantity, we must consider that the intention was to grant all the land included within the boundaries, notwithstanding that in a subsequent condition the quantity is erroneously stated. That conditions applicable only to one species of grants were often inserted by mistake in grants of a different species is notorious. In this case the mention of two leagues as the extent of the granted land, is perhaps owing to the fact that the clerk who drafted the document forgot that a tract two leagues broad by two wide contained four and not two square leagues. However this may be, we think it clear that in this case all the land within the boundaries was intended to be granted, and as there is no proof or suggestion that the land so included exceeds in extent the quantity testified to by the witnesses before the alcalde, that the claim should be confirmed to the tract as described in the grant and delineated on the map.

Delivered September 22d, 1856.

Decree.

No. 46.

In the District Court of the United States for the northern district of California.

THE UNITED STATES, Appellants, vs. ROSA PACHECO et als., Respondents, and ROSA PACECO et als., Appellants, vs. THE UNITED STATES, Respondents.	Transcript from Board of Commissioners—No. 168.

On appeal by both parties from the final decision of the board of commissioners to ascertain and settle private land claims in the State of California.

Decree.

This cause came on to be heard at a stated term of the court on appeal by both parties from the final decision of the board of commissioners to ascertain and settle the private land claims in the State of California, under the act of Congress approved on the 3d of March, A. D. 1851, upon the transcript of the proceedings and decision of the said board of commissioners, the papers and evidence on which the said decision was founded, the petitions of both parties as appellants, and their answers as appellees, and upon the further evidence given in this court by leave of the court, and it appearing to the court, after argument of counsel for the respective parties, that there is error in the said decision of the board of commissioners in this, that by said decision the claim is confirmed only to the extent and quantity of two square leagues of land, whereas the same should be confirmed to the extent and quantity included within the boundaries specified and designated in the grant and map therein referred to, it is by the court hereby ordered, adjudged and decreed, that the said decision be, and the same is hereby, reversed and in all things annulled.

And the court now proceeding to render such decision and judgment as should have been rendered herein, it is ordered, adjudged, and decreed that the claim of the said Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Petra Pacheco, Sylveria Pacheco, Trinidad Pacheco, Antonio Pacheco, Miguel Pacheco, Ygnacia Pacheco, Daniel Bowen, Juan Peralta, Maria Antonia Peralta, and Maria de los Angeles Peralta, the devisees named in the last will and testament of Juana Sanchez de Pacheco, deceased, is a good and valid claim, and that the said claim be, and the same is hereby confirmed to the said devisees in the proportions to which they may be severally entitled under the said last will and testament, to the extent of the boundaries specified in the decree of concession and grant to the said Juana Sanchez de Pacheco, and the map to which the said grant refers, which said decree, grant and map appear in the expediente which is set forth in the transcript on file in this case.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed: Filed September 22d, 1856.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order granting Appeal.

At a stated term of the district court of the United States of

America for the northern district of California, held at the court-room in the city of San Francisco, on Tuesday, the twenty-fourth day of March, in the year of our Lord one thousand eight hundred and fifty-seven.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES vs. ROSA PACHECO et al. } D. C. 46.—L. C. 168.

In this case, on application of the United States district attorney, made in open court, it is ordered by the court that an appeal in behalf of the United States from the final decision of this court, rendered at the present term, be and the same is hereby granted; and that a certified transcript of the pleadings, evidence, depositions and proceedings in the said cause be sent to the Supreme Court of the United States without delay.

Endorsed: Filed March 24th, 1857.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVRRS, *Deputy.*

Order granting Appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Saturday, the 14th day of August, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
ROSA PACHECO, ENCARNACION PACHECO, Francisca Pacheco, Juan Soto and Petra Pacheco his wife, Sylveria Pacheco, Joaquin Ysidro Castra and Trinidad Pacheco his wife, Antonio Pacheco, Miguel Pacheco, and Maria Ygnacia Pacheco, minors, by their guardian, Sebastian Peralta, Daniel Bowen, a minor, by his guardian, Joaquin Ysidro Castro, Juan Peralta, Francisco Garcia and Maria Antonia Peralta his wife, Mariano Miranda and Maria de los Angeles Peralta his wife, and Joaquin Ysidro Castro and Francis Lightstone, ex'rs last will of Juana Sanchez de Pacheco, deceased. } D. C. 46.—L. C. 168.

In this case, on application of P. Della Torre, esq., U. S. attorney, it is ordered that an appeal in behalf of the United States from the final decision of the court, rendered in said cause at the June, 1856, term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence, deposi-

tions and proceedings in the said cause be sent to the Supreme Court of the United States without delay, and the appellants are ordered to serve the usual citation according to law.

OGDEN HOFFMAN,
District Judge.

Endorsed: Filed August 14th, 1858.

W. H. CHEVERS, *Clerk.*

Citation.

The United States of America to Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Juan Soto, and Petra Pacheco, his wife, Sylveria Pacheco, Joaquin Ysidro Castro, and Trinidad Pacheco his wife, Antonio Pacheco, and Maria Ygnacia Pacheco, minors, by their guardian Sebastian Peralta, Daniel Bowen, a minor, by his guardian Joaquin Ysidro Castro, Juan Peralta, Francisco Garcia, and Maria Antonia Peralta his wife, Mariana Miranda, and Maria de los Angeles Peralta his wife, and Joaquin Ysidro Castro and Francis Lightstone, ex'rs last will of Juana Sanchez de Pacheco, deceased, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden in Washington, on the first Monday in December next, pursuant to an order of appeal granted on the fourteenth day of August, A. D. 1858, by the district judge of the district court of the United States for the northern district of California, in a certain suit, wherein the United States are plaintiffs and you are defendants on appeal, to show cause, if any there be, why the decision in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal, at San Francisco, this fourteenth day of August, in the year of our Lord one thousand eight hundred and fifty-eight.

OGDEN HOFFMAN, [SEAL.
Dist. Judge.

Due service of within citation by U. S. marshal, admitted this 16th day of August, A. D. 1858.

A. P. CRITTENDEN,
Att'y for Claimant.

Endorsed: Filed August 16th 1858.

W. H. CHEVERS, *Clerk.*

Order Vacating Order granting Appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Wednesday, the 18th day of August, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
ROSA PACHECO & others. } No. 46.

On motion of said claimants, by their attorney, A. P. Crittenden, esq., and after hearing P. Della Torre, esq., U. S. attorney, it is ordered by the court, that the order made in this cause on Saturday, the 14th day of August, instant, granting an appeal on the part of the United States on motion of the U. S. attorney, be and the same is hereby set aside and vacated without prejudice to the United States.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed: Filed August 18th, 1858.
W. H. CHEVERS, *Clerk.*

Order to file Mandate.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Wednesday, the 18th day of August, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
ROSA PACHECO and others. } No. 46.—U. S. Dist. Court.

And now at this day come the said claimants, Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Juan Soto, and Petra Pacheco his wife, Sylveria Pacheco, Joaquin Ysidro Castro, and Trinidad Pacheco his wife, Antonio Pacheco, Miguel Pacheco, and Maria Ygnacia Pacheco, minors, by their guardian Sebastian Peralta; Daniel Bowen, a minor, by his guardian Joaquin Ysidro Castro, Juan Peralta, Francisco Garcia, and Maria Antonia Peralta his wife, Mariano Miranda, and Maria de los Angeles Peralta his wife, by their attorney, A. P. Crittenden, and present the mandate of the Supreme Court of the United States, dismissing the appeal made herein on behalf of the United States to the said Supreme Court; whereupon, and on motion of said claimants by their said attorney, it is ordered that said mandate be filed and made a part of the record of this court in this cause, and that the said claimants may proceed under the decree of this court heretofore rendered in favor of the claim of said claimants as under final decree.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed: Filed August 18th, 1858.
W. H. CHEVERS, *Clerk.*

The United States vs. *Pacheco et als.*

Mandate.

[SEAL.] UNITED STATES OF AMERICA, *ss.*

The President of the United States of America, to the honorable the Judge of the District Court of the United States for the northern district of California, greeting:

Whereas lately, in the district court of the United States for the northern district of California, before you in a cause between the United States, appellants, and Rosa Pacheco and others, devisees, under the last will and testament of Juana Sanchez de Pacheco, deceased, appellees, wherein a decree was rendered in favor of the said appellees:

Whereupon the said appellants prayed an appeal, which was duly allowed by the said district court to remove the said cause to the Supreme Court of the United States, as by the inspection of the transcript of the record of the said district court, which was brought into the Supreme Court of the United States, agreeably to the act of Congress and the rules of the said Supreme Court in such case made and provided, fully and at large appears: And whereas in the present term of December, in the year of our Lord one thousand eight hundred and fifty-seven, the said cause came on to be heard before the said Supreme Court, and it appearing that the said appellants have failed to have their cause filed and docketed in conformity to the rules of this court, it is now here ordered and decreed by this court that this appeal from the district court of the United States for the northern district of California be, and the same is hereby, docketed and dismissed, and that this cause be, and the same is hereby remanded to the said district court, Jan. 11th.

You therefore are hereby commanded that such proceedings be had in said cause as, according to right and justice and the laws of the United States, ought to be had, the said appeal notwithstanding.

Witness the Honorable Roger B. Taney, Chief Justice of said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and fifty-seven.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

Endorsed: Filed August 18th, 1858.

W. H. CHEVERS, *Clerk.*

Order granting Appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Thursday, the 19th day of

August, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
ROSA PACHECO, ENCARNACION PACHECO, Francisca Pacheco, Juan Soto, and Petra Pacheco his wife, Sylveria Pacheco, Joaquin Ysidro Castro, and Trinidad Pacheco his wife, Antonia Pacheco, Miguel Pacheco, and Maria Ygnacia Pacheco, minors, by their guardian Sebastian Peralta, Daniel Bowen, a minor, by his guardian Joaquin Ysidro Castro, Juan Peralta, Francisco Garcia, and Maria Antonia Peralta his wife, Mariano Miranda, and Maria de los Angeles Peralta his wife, and Joaquin Ysidro Castro, and Francis Lightstone, ex'rs last will of Juana Sanchez de Pacheco, deceased. } D. C. 46.—L. C. 168.

In this case, on application of P. Della Torre, esq., U. S. attorney, it is ordered that an appeal in behalf of the United States from the final decision of the court rendered in said cause at the June, 1856, term, be and the same is hereby granted, and that a certified transcript of the pleadings, evidence, depositions and proceedings in the said cause be sent to the Supreme Court of the United States without delay; and the appellants are ordered to serve the usual citation according to law.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed August 19th, 1858.

W. H. CHEVERS, *Clerk.*

Citation.

United States of America to Rosa Pacheco, Encarnacion Pacheco, Francisca Pacheco, Juan Soto, and Petra Pacheco his wife, Sylveria Pacheco, Joaquin Ysidro Castro, and Trinidad Pacheco his wife, Antonio Pacheco, Miguel Pacheco and Maria Ygnacia Pacheco, minors, by their guardian Sebastian Peralta; Daniel Bowen, a minor, by his guardian Joaquin Ysidro Castro, Juan Peralta, Francisco Garcia, and Maria Antonia Peralta his wife, Mariano, Miranda, and Maria de los Angeles Peralta his wife, and Joaquin Ysidro Castro and Francis Lightstone, ex'rs last will of Juana Sanchez de Pacheco, dec'd, greeting:

You are hereby cited and admonished to be and appear at a

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Supreme Court of the United States to be holden in Washington, on the first Monday in December next, pursuant to an order of appeal granted on the nineteenth day of August, A. D. 1858, by the district judge of the district court of the United States for the northern district of California, in a certain suit wherein the United States are plaintiffs, and you are defendants, on appeal, to show cause, if any there be, why the decision in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal at San Francisco, this nineteenth day of August, in the year of our Lord one thousand eight hundred and fifty-eight.

OGDEN HOFFMAN, [SEAL.]
U. S. Dist. Judge.

Due service of within citation by U. S. marshal admitted this 19th day of August, A. D. 1858.

A. P. CRITTENDEN,
Att'y for Claimants.

Endorsed: Filed August 19th, 1858.
W. H. CHEVERS, *Clerk.*

I, W. H. Chevers, clerk of the district court of the United States for the northern district of California, do hereby certify that the annexed and foregoing pages, numbered from one to one hundred and two, both inclusive, contain a full, true and correct transcript of the record from the board of U. S. land commissioners, and of the pleadings, proceedings, depositions, opinion, decree, orders, mandate and citations in said court, filed in the case of The United States, appellants, vs. Rosa Pacheco et al., appellees.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, this 31st day of August, A. D. 1858, and of our independence the 83d. [SEAL.]

W. H. CHEVERS, *Clerk.*

Filed 21st October, 1858.